

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

DECEMBER 16, 2002

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
CLIVE, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Murphy at 10:00 a.m. on Monday, December 16, 2002, in the Ingram Office Building, Clive, Iowa.

MEMBERS PRESENT

Lisa Davis Cook
Lori Glanzman
Darrell Hanson
Kathryn Murphy, Chair
Jerry Peckumn
Gary Priebe, Vice Chair
Kelly Tobin
Terrance Townsend
Rita Venner, Secretary

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Move: Item 14, Final Rule, Chapter 65, Animal Feeding Operations (County Construction Review Resolution up to Item 5.
- Add: Appointment - Stuart Feldstein – City of Garnavillo - 11:30 AM
- Add: Appointment – Wayne Gieselman – Update on Ag Drainage Wells – 1:00 PM

Motion was made by Gary Priebe to approve the agenda as amended. Seconded by Lori Glanzman. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Lori Glanzman asked that the minutes be revised to remove James Braun and add Jerry Peckumn to the members present.

Motion was made by Lori Glanzman to approve the minutes of the November 18, 2002 EPC meeting as amended. Seconded by Terry Townsend. Motion carried unanimously.

APPROVED AS AMENDED

DIRECTOR'S REPORT

Director Jeffrey Vonk said that the Environmental Protection Agency had just released their new Confined Animal Feeding Operations rule. It was not expected to be released to the public until later that afternoon so he would not be able to give the Commission any details but he expected that it would require a fair amount of work by the Department to coordinate the existing rules as

well as those in the process of being implemented in response to last year's feedlot bill. He said he hoped to be able to send the Commissioners some information in writing by the January meeting.

AGREEMENT Bi-STATE REGIONAL COMMISSION VOLUNTARY OZONE REDUCTION ACTIVITIES

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The department will be entering into an agreement with the Bi-State Regional Commission for the purpose of promoting activities to ensure the continued attainment of the national ambient air quality standard for ozone in the Quad Cities area. The Bi-State Regional Commission is a Metropolitan Planning Organization and Council of Governments serving five counties and 44 communities in eastern Iowa and western Illinois. The Bi-State Regional Commission serves as staff to the Quad Cities Urbanized Area Transportation Policy Committee's Air Quality Task Force. The Air Quality Task Force is a group that represents municipalities, counties, chambers of commerce, energy utilities, state and federal resource agencies, etc. The Air Quality Task Force has been working to raise public awareness of issues related to ozone and encourage voluntary reduction measures since 1998.

Activities under the agreement will include identifying existing voluntary reduction measures and facilitating new voluntary reduction activities, both in the public and private sectors, designed to reduce the emissions of ozone precursor gases. The agreement provides funding for the production and distribution of ozone reduction information and education materials to educate local governments and major industries on voluntary ozone reduction planning processes. The outreach will also include educating the general public on the purpose and scope of voluntary emissions reductions.

Funding for this agreement comes from a pass through federal 105 grant from the US. EPA Region VII office that has been added onto Iowa's annual federal 105 grant fund. The agreement period will extend from October 1, 2002 through September 30, 2003. The EPA grant shall not exceed \$40,000.

Jim McGraw briefed the Commission on the agreement.

INFORMATION ONLY

FINAL RULE CHAPTER 65, ANIMAL FEEDING OPERATIONS (COUNTY CONSTRUCTION REVIEW RESOLUTIONS

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Commission is requested to approve rules for the implementation of county boards of supervisors' construction evaluation resolutions, to give counties the authority to evaluate proposed confinement livestock structure construction in their county. County construction evaluation resolutions, as outlined in Senate File 2293 passed by the 2002 Iowa legislative body,

allow counties to score the proposed livestock confinement sites with the master matrix. The master matrix was developed by a committee of 10 as designated by the legislation and approved by the Commission for Notice of Intended Action at its October meeting. If the proposed site does not attain a minimum score on the master matrix, the confinement structure will be denied a construction permit if the DNR agrees with county's evaluation, pending an applicant's right to appeal.

The master matrix, as defined in SF 2293, is a rating system where proposed livestock confinement operations are evaluated on their site location, socio-economic and implementation of "good neighbor" best management practices. The master replaces the interim matrix on March 1, 2003.

This rules package was tabled at the November Commission meeting to allow the department to further research varying interpretations of the statute. Because the rules were tabled, the department is filing the rules package Emergency after Notice to ensure an effective date of February 1, 2003. To address the issues raised at the November meeting and by the public comments, a modified version of the proposed rules will be distributed to the Commission prior to the December 16 meeting. Modifications in the text are highlighted with underline and strikethrough text to indicate what has been added and deleted since from the original proposed rule document. (This highlighting will not be included in the rule document filed with Rules Coordinator) The Commission is asked to consider the proposed rule as well as any other rule language modifications that may be suggested by the Commission.

(A copy of the proposed final rule is available in the Department's Record Center.)

Motion was made by Darrell Hanson to remove the Final Rule Chapter 65, Animal Feeding Operations from the table. Seconded by Jerry Peckum. Motion carried unanimously.

REMOVED FROM TABLE

Robin Pruisner said that counties would have the opportunity to adopt a construction evaluation resolution, if they choose not to, they would not be allowed to accompany the DNR on the survey of the proposed site, they would not be able to submit an adopted recommendation to the Department, and they would not be able to appeal the draft permit to the Environmental Protection Commission. As always they would be able to submit comments to the Department.

Darrell Hanson asked if the law prohibited the county from sending a representative with the DNR on a site survey.

Mike Murphy said he interpreted the statute as a prohibition and because there is no law allowing the county to accompany the Department on site inspections, the department would not be able to give other people authority to go onto private property.

Kelly Tobin asked if Robin had any idea how many counties planned to adopt the resolution.

Robin Pruisner said in early November she spoke at the annual meeting of the Iowa State Association of Counties that was attended by supervisors from all over the state. At the end of

the session the county's legal counsel asked how many of the supervisors planned to adopt the resolution and by show of hands all but one person indicated they would.

She said a county that has adopted the construction evaluation resolution will be allowed to accompany the department on the site survey, will have the option of appealing the draft permit to the Commission, and will be required to submit an adopted recommendation to approve or disapprove a permit to the Department. If a county fails to send an adopted recommendation for a permit to the Department, the Department will disregard all future adopted recommendations until that county re-enrolls the following January and will be subject to the same limitations as those counties that had not signed the Construction Evaluation Resolution.

Jerry Peckumn said his concern is with the penalty for forgetting to submit an adopted recommendation.

Robin Puisner said she has discussed this with the Legislator's who drafted the bill and was told their intent was not to allow the county to opt in and out of using the matrix.

Jerry Peckumn asked how the citizens of a county will know if their elected officials forgot to submit an adopted recommendation. He said the idea of the matrix is to improve natural resource conservation so if someone for some reason fails to submit an adopted recommendation it will affect the rest of the citizens in the county.

Robin Puisner said the county will still be required to give public notice of a permit application.

Jerry Peckumn asked if the applicant would be relieved of their obligation to meet the threshold of the matrix if the county fails to submit an adopted recommendation to the department.

Robin Puisner said if the applicant would not be required to meet the threshold of the matrix but would still have to meet the minimum requirements for a construction permit.

Jerry Peckumn said while he does not believe the county should be able to pick and choose who to apply the matrix to, it seems as though the penalty is a little too severe.

Robin Puisner said the Department has discussed the possibilities of imposing fines for the failure to submit an adopted recommendation but they did not feel as though it would be as effective as this option would be.

Rita Venner said she believes that if it is explained to the counties what is expected of them, they will adhere to the rules and if they miss it once, they won't be likely to miss it again.

Robin Puisner said she has been working with the Iowa State Association of Counties (ISAC) to provide training and informational meeting in January and February to ensure that the Counties are aware of all of the details and the rules surrounding use of the matrix.

Jerry Peckumn said the Attorney General's opinion is that the statute allows the counties to pick and choose who to apply the matrix to. It is the Department's opinion that they should not.

Lisa Davis Cook asked if Bob Mulqueen from the ISAC could let the Commission know how the counties felt about these rules.

Robert Mulqueen said he agrees that the matrix should be used on all permit applications received by the county and has recommended such to their members. However, if for one reason or another, a recommendation does not accompany the scored matrix he would take issue with taking away the right to use it for the rest of the year.

Jerry Peckumn said he does not like the idea of taking away the right of the county to use the matrix for a year because of what could possibly be a clerical error. He suggested changing the wording in the rule to say if the county fails to submit an adopted resolution the applicant will still responsible for meeting the threshold score on the matrix

Jeffrey Vonk said he believes that the matrix was an attempt to put some form of local control in the system. If you do not require the supervisors to make a recommendation it would be subverting that intent.

Lisa Davis Cook said from what Director Vonk said it does not sound as though a passing score circled on the matrix would pass as a recommendation.

Jeff Vonk said circling the score on the matrix does not put anyone other than the applicant on record.

Rita Venner said she believes if the counties want local control they need to go on record with their opinion.

Jeff Vonk said maybe they could avoid this by changing the rule to state if the county submits a matrix with a passing score and does not appeal the permit the department will assume they endorse it.

Mike Murphy said the code states that if they do not submit an adopted resolution the department is to evaluate the permit based on minimum requirements therefore he did not think the Department could adopt such a rule.

Lisa Davis Cook asked if the Department could approve a construction permit if the applicant does not pass the matrix.

Robin Puisner said if the county submits a matrix that does not show a passing score, the department will run the matrix and determine if they agree with the score given by the county.

Lisa Davis Cook said if the county is required to run the matrix on a proposed facility and submit an adopted recommendation she does not see any problem with requiring the applicants to continue to meet the matrix if a county fails to submit an adopted recommendation.

Mike Murphy said the codes states that if the county fails to submit an adopted recommendation the permit is to be evaluated based on the departmental rules.

Gary Priebe said he does not see any problem with requiring the Board of Supervisor's to submit an adopted recommendation.

Motion was made by Gary Priebe to approve the final rule as presented. Seconded by Rita Venner. The roll call vote went as follows: Lisa Davis Cook Aye; Lori Glanzman Aye; Darrell Hanson Nay; Gary Priebe Aye; Kelly Tobin Nay; Terry Townsend Aye; Rita Venner Aye; Jerry Peckumn Nay; Kathryn Murphy Aye.

APPROVED AS PRESENTED

APPOINTMENT STEVE ROE AND CRAIG OLSON LITTLE SIOUX CORN PROCESSORS

Steve Roe, General Manager of Little Sioux Corn Processors in Marcus, Iowa said Craig Olson, Director of Environmental Engineering for Yaggy, Colby and Associates in Mason City had been involved in the permitting process at Little Sioux from the project's conception and had a thorough understanding of the measures taken by the company to make sure their permitting request was procedurally sound and backed by scientific fact. He said the Little Sioux project began approximately three years ago with a group of people getting together to try to find a way to develop the economic environment in Northwest Iowa. It was decided to build an ethanol plant which is now about 75% complete with a tentative startup date of March, 2003. It is a farmer owned company, which will produce in excess of 40 million gallons of ethanol and 130,000 tons of dried distiller's grain, which will be marketed domestically. He asked Craig Olson to explain the permitting process for the Commission.

Craig Olson said the primary reason they were there was to discuss discharge permits for nonprocess waters coming from ethanol plants. Currently the state has a total dissolved solids (TDS) water quality standard of 750 mg/liter. The groundwater that Little Sioux Processors' will be using has a TDS concentration of 1700 mg/liter, which puts it way over the standard prior to using it. In an ethanol plant, the nonprocess water comes from cooling tower blow down, reverse osmosis reject flows, and a periodic back washing of filters. That water is typically heavily laden with TDS only. He said other states including Nebraska, Minnesota, and Illinois have no limits for TDS, while South Dakota has set their limit at 3,000 mg/liter. According to the EPA publication called "The Quality Criteria for Water," TDS is a secondary drinking water standard typically set at 500 mg/liter for drinking water sources. Until you get up to higher concentrations, TDS are basically an aesthetic quality of water. This publication also states that most freshwater species of fish do not show any toxic effects in TDS waters up to 10,000 mg/liter and depending on the specific components watering livestock is safe up to 5,000 mg/liter. When Little Sioux Corn Processors realized that the non contact type wastewaters would not meet the 750 mg/liter in stream limit because there is no flow available for mixing, they performed some whole effluent toxicity testing and found that this effluent would have a lot of calcium and magnesium carbonates in it, which according to tests performed by the University

Hygienic Lab have no toxic effect on fat head minnows at levels up to 3,240 mg/liter. With that information they applied to the State for a variance from the 750 mg/liter standard asking that they be allowed to discharge at the 3,240 mg/liter. They were informed recently that a variance to the State's water quality standards is not the proper mechanism to getting permit limits changed; and that rulemaking would be required. The State has been discussing TDS for the past couple of years through the technical advisory committee and those discussions have been focusing on whether there should be a new numerical limit set or using whole effluent toxicity testing and possibly setting limits on certain components of the TDS. Little Sioux Corn Processing has requested an emergency rulemaking for their specific facility.

Steve Roe said a delay in the issuance of their waste water permit will cost \$5,900 per day in additional interest costs, 12,000 per day in projected profits, and approximately 1,000,000 per month in CCC reimbursements as provided for in the new Farm Bill. Little Sioux Corn Processors will employ 30 to 31 people which will be a payroll of 1.5 million dollars per year of new money for the communities in Northwest Iowa. The property tax generated by this facility will be approximately \$180,000 and the tax for the usage of the gas pipeline will be \$165,000 per year all of which goes back to the counties and the schools of Iowa. All of the corn they will use will be purchased through the open market, which has the potential of increasing the price of corn a minimum of ten cents per bushel. He urged the Commission and the Department to find a permanent solution to the TDS problem, and an interim solution that would allow them to start up on their projected start date. He said this is a problem for all industry in Iowa, not just for ethanol, which has to be solved to allow continued industrial development.

Darrell Hanson asked how much their process would increase the TDS total.

Steve Roe said their facility would discharge at approximately 3,240 mg/liter.

Darrell Hanson said even if they started with water that had a zero TDS they would still have a problem meeting the standard as it stands today.

Kelly Tobin asked if they had known about the problem before they began construction.

Steve Roe said they had known about the standard but had believed through wet testing they would be able to provide data to the Department so could be issued a permit with a variance.

Gary Priebe said how all of the other ethanol plants in Iowa meet the TDS standards.

Steve Roe said they do not.

Craig Olson said they have to have a variance unless they are fortunate enough to have a city water source and are able to discharge into a city water treatment system. He said there are some streams approximately six miles away that they could discharge into to a water flow that would create a mixing zone but they do not have the time before start up to get it put in.

Jerry Peckumn asked if they had any idea what the cost would be to the company if they did that.

Craig Olson said he would guess a minimum of a half million dollars, but it would depend on easements and the pumping.

Lori Glanzman asked if they were considering any other method of treating the water so that they could open on time if they were not given the variance.

Craig Olson said he was not aware of any method to treat the water for TDS.

Jeffrey Vonk said the Department is aware of this problem and is committed to work toward a solution and believes that Jack Riessen has started discussions with the technical advisory committee. The problem they have is the company's start up date versus the minimum six month time frame to go through the rule change. He said the Department is also working with the EPA regionally.

Kelly Tobin asked what the negative impacts would be of approving a variance.

Jeff Vonk said EPA could withdraw the Department's authority to run the water program.

Gary Priebe asked if the 750 mg/liter was a federal standard.

Jack Riessen said that the 750 mg/liter standard was set a long time ago and the scientific rationale for it has somehow disappeared. He said Mr. Roe is correct that there could many different components in TDS, such as calcium carbonates, magnesium carbonates, dissolved iron, sodium chloride, etc. TDS is relatively innocuous if it is made up of magnesium and calcium chlorides. This issue before the technical advisory committee is whether or not to drop TDS standards and adopt a more chemically specific standard. The Department received a letter from EPA stating that it is their interpretation of the law that for a state to issue a variance for a state water quality standard it constituted a change to the standard. In accordance with EPA regulations, a change to the water quality standard must be done through public rulemaking and then be submitted to EPA for approval before it can be used for issuing an NPDES permit. If the Department was to issue a variance the EPA could object to that permit and take it over themselves. If the Department showed a pattern of variances without going through the formal process of rulemaking the EPA could take away the Department's authority to issue any NPDES permits, which would include wastewater, storm water, and AFO/CAFO permits. The Department is looking for a solution, the long term solution is having the technical advisory committee look at the issue, but he would not know the outcome of those discussions for four to five months. The department is committed to trying to find an interim solution that will apply to this situation without running afoul with the EPA and risking a legal challenge.

Gary Priebe asked what the Federal standard was.

Jack Riessen said there are no Federal standards for TDS. The Federal Government puts out guidance values that states can use. He said as far as he can tell the State adopted a TDS that was not required by EPA but because the State had adopted it they are expected to use it.

Terry Townsend asked where the discharge for this plant would be going as it is planned at this time.

Steve Roe said it would flow down to an unnamed stream that does not carry the minimum flow required and then to a stream that does have the proper flow.

Gary Priebe asked how many gallons of water a day.

Steve Roe said roughly a half million gallons.

Kathryn Murphy asked the Department to keep the Commission apprised on the issue.

PUBLIC PARTICIPATION

Anderson, Jerry

Jerry Anderson said the e coli was 200 organism per 100 ml standard which was very strict that was protective of groundwater sources. The proposed change for Chapters 61 and 72 would make the new e coli standard as high as 2,880 organism per 100 ml, which would be very high if you were discharging directly into ground water. In conversations with DNR staff he has been told that this may have been a mistake and that they had not realized what the impact of the stream would be but if that is true it should be corrected now before it goes out as a notice of intended action.

Veysey, Steve

Steve Veysey from the Hawkeye Fly Fishing Association said he is a representative on the technical advisory committee for water quality standards who he believed had reached a reasonable consensus on these rules. However, right now the Department is proposing to only apply the A1, A2, and A3 classifications to any stream that is currently designated as Class A. The A2 category is to protect among other things fishable streams, any stream that is classified as B warm water, or B cold water is by definition a fishable stream.

He said while he can appreciate the concerns of the ethanol industry in Iowa, surface water usually has a TDS of less than 400 mg/liter, 90% of which is calcium carbonate. That is the environment that our aquatic life has evolved to accommodate. When there is more than 1000 mg/liter, when the TDS is chloride, the water is brackish. While the toxicity is highly dependent on the makeup of the total dissolved solids, the toxicity of chloride is much greater on macroinvertebrates than it is on fish and there are also numerous plants that are affected by it. Therefore this is an issue that the technical advisory committee needs to look at very closely. He said he is not sure what kinds of technologies have been investigated by the ethanol industry to reduce TDS in their effluent but there are many water treatment plants in Iowa that do just that.

Heathcote, Susan

Susan Heathcote, Research Director for the Iowa Environmental Council said she understands that after the inspection an ag drainage well in Humboldt County, it was found to be not in compliance with the permit. At the time that the Commission was dealing with creating the rules for the continued operation of ag drainage wells, the Iowa Environmental Council was concerned about issuing permits prior to completion of the needed work to seal the wells. There were no resources available and there were no plans on the part of the Department to conduct inspections to ensure that the permitted wells were in compliance with the permit issued. The continued use of ag drainage wells should involve some type of inspections. Ultimately the Iowa Environmental Council believes that the solution is to get these wells closed, unfortunately the money that had been put aside for the closure of ag drainage wells was zeroed out to help balance the budget, and in Humboldt County the cost of alternative drainage is very high because of the shallow bedrock. She said another alternative to drainage, would be the closure of the wells and allowing the land to convert to wetlands. However that alternative is currently not funded through the alternative drainage assistance account.

She said IEC had reviewed the proposed changes to the impaired waters list and a lot of their concerns had not been addressed. The IEC has forwarded their comments to the EPA and will continue to discuss their concerns with them. She said of the twelve impairments to water bodies that were removed from the list in response to public comment, she was able to understand the reasoning for eight of them. Of the remaining four, the Des Moines River near Eddyville that had been listed for nitrates, based on a violation of the Safe Drinking Water Act by a facility in Eddyville in 1998. The Iowa River, downstream from Wapello, there were two segments listed for bacteria, there was data from 1996 for fecal coliform, and from 1997 for e coli. While the fecal coliform data is more than five years old the e coli data is not. The e coli exceeded the EPA e coli standard but because the State's standard at this time is for fecal coliform it was removed from the list. However there was no data to show that the bacteria problem had been addressed. She said if there is no funding for follow up assessments, any impaired water body whose data is more than five years old will be removed without having the problem addressed. She said she was also concerned with recreational waters such as George Wythe Beach, which was closed over the summer of 2001, based on an e coli level, but was not included on the impaired waters list.

Jordahl, Erin

Erin Jordahl, Director of the Iowa Chapter of the Sierra Club said the impaired waters list is meant to identify the real state of Iowa's water bodies so that Iowa can officially use state and federal resources to protect and restore water quality. Unfortunately, State law prohibits the DNR from accurately and completely assessing water quality. She asked the Commission to encourage the Department to ask the State Legislators to change the credible data law so that the water bodies that need to be cleaned up are actually included on the 303(d) list and to call on them to create water quality standards and monitoring criteria for wetlands. She said during the 1998 listing process the EPA put several wetlands on Iowa's list even though the DNR had stated that the wetlands did not belong there because they were assessed by lake criteria, which is inappropriate. During this listing cycle the public was unable to adequately comment on the list because the final 305(b) report had not been released. The 305(b) report is the starting point in

determining which water bodies do not meet water quality standards therefore it is impossible to have a valid 303(d) list without a proper 305(b) report. Finally the methodology used to create the 2002 303(d) list resulted in certain types of data not being considered and the omission of water bodies that should have been listed. While they realize that this is due partly to requirements of the credible data law, some examples of data not considered, such as existing and readily available data relating to the Mississippi River, are included in a consent decree entered in a federal lawsuit brought by the Sierra Club and other plaintiffs against the EPA in the Northern District of Iowa. She said the Sierra Club expects that the EPA will carry out its obligations under the consent decree, but if not they will seek to enforce the decree.

Robert Mulqueen

Robert Mulqueen with the Iowa State Association of Counties said he believed that the Board of Supervisors of each county should take the responsibility of the process put into effect by Senate File 2293 very seriously. However there are two matters that currently trouble some supervisors, the first being the passing score of 50% which they do not believe is a high enough standard for such an effort. Secondly the during the long discussion of the master matrix committee it was said that the County would score the matrix based upon assurances made in the construction permit application, however the evolution of this process now presents a scenario where the applicant completes the master matrix and presents the finished product to the Supervisors. The task of the County Supervisor would then be to grade the exam not give it. In challenging any points, the county must ask numerous questions about the validity of assurances made by applicant. In using the authority of the county to ask questions about the measures above and beyond the law, which the applicant promises to make, the likely response of the county will be that such assurances can only come into being once construction has began and that can only proceed if they are awarded a construction permit. Once the permit is given any question by the county is moot and it will continue to be moot until the State of Iowa also requires CAFO's to have operational permits.

CONTRACT - U. S. ARMY CORPS OF ENGINEERS WATER QUALITY MONITORING

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Department requests Commission approval of a Memorandum of Agreement in the amount of \$49,500 between the U.S. Army Corps of Engineers, Rock Island District, and the Department for water quality monitoring.

The purpose of the Memorandum of Agreement (MOA) is to supplement the U.S. Army Corps of Engineers (COE) water quality monitoring at eleven sites associated with Coralville, Red Rock, and Saylorville Reservoirs. Flat budgeting by the COE over a number of years has reduced the number of parameters measured at their long-term monitoring sites. These eleven COE sites are extremely valuable because they represent the longest monitoring records in the state. This MOA restores monitoring for five parameters: total phosphate, dissolved orthophosphate, total nitrogen, dissolved silica, and total organic carbon. These parameters provide critical information on the movement of nutrients in Iowa streams. The agreement

between the COE and DNR also provides comparability in monitoring efforts conducted by the two agencies. The supplemental MOA is an on-going project and has been in place since fiscal year 2000.

Funding for this agreement is available from the RIIF state funds appropriated as part of the Environment First Fund, Iowa Water Quality Initiative.

Mary Skopec, Supervisor of the Water Monitoring Program said this item is an ongoing agreement between the Department and the Corps of Engineers. It supports monitoring at 11 sites for nutrients.

Motion was made by Darrell Hanson to approve the contract as presented. Seconded by Gary Priebe. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE CHAPTER 107, BEVERAGE CONTAINER DEPOSITS (AMENDMENT)

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Commission is requested to approve the attached amendments to chapter 107. The Notice of Intended Action was approved by the Commission at the September 2002 meeting. Several minor changes have been made based on the comments received during the public comment period and public hearing.

A public hearing was held on November 7, 2002 and attended by 4 people. The department also received several written comments during the public comment period. A summary of the comments received and the department's response is also attached.

Based on the comments received, the department has revised the proposed changes to chapter 107 in the following manner:

- Rewording 107.3(5) to clarify that refund language may be anywhere on the product label
- Rewording 107.4(1)b to allow approved redemption centers to indicate that they will accept the same kind, size, and brands sold by the dealer they are serving rather than supplying the department with a list of all the size types and brands they accept.
- Rewording 107.4(1)i to allow redemption centers to be approved if they are open to the public four hours in the evening or on weekends.

The department is requesting that the amendments be filed Emergency after Notice so that they become effective upon filing. This action is taken at the request of the Administrative Rules Review Committee in order to address the session delay which would otherwise send the proposed rules to the legislature for review during the 2003 legislative session. A full opportunity for public comment has been provided

(A copy of the final rule is available in the Department's Record Center.)

Wayne Gieselman said the Department is filing this rule emergency after notice at the request of the Administrative Rules Committee to avoid having the Legislature deal with this issue.

Lisa Davis Cook asked if the industry people were in agreement with this rule.

Wayne Gieselman said that representatives from the industry appeared before the Administrative Rules Committee and testified that they did not object to the rules.

Lisa Davis Cook said it appears as though the Department is telling redemption centers through this rulemaking what their hours must be.

Theresa Stiner said the hours of operation applies to approved redemption centers which requires them to be open a minimum of twenty hours a week with four of the hours being on a Saturday, Sunday or evening. The reason for this is because an approved redemption center relieves a grocer of the responsibility of taking back containers and the law requires that the Department approve it only if it is convenient for the consumers.

Motion was made by Terry Townsend to approve the final rule as presented. Seconded by Jerry Peckumn. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION CHAPTER 116, REGISTRATION OF WASTE TIRE HAULERS (RESCISSION OF OLD AND ADOPTION OF NEW)

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

Attached for the Commission's consideration for decision is a Notice of Intended Action to rescind administrative rule Chapter 567-116 "Registration of Waste Tire Haulers" and to adopt a new Chapter 567-116. The request for action on this rule chapter is to improve the current guidelines and requirements relating to waste tire hauling and disposal services, pursuant to requirements set forth in Iowa Code Chapter 455D.11I.

The chapter proposed for rescission is a direct adaptation of the Secretary of State's rules formerly contained in Iowa Administrative Code Chapter 721-44 "Registration of Waste Tire Haulers." Through Iowa Acts 2002, House File 2554, the responsibility for this registration process was transferred to the department as of April 22, 2002. As the Commission may recall, in order to provide continuity in the issuance of registration certificates to waste tire haulers, the commission approved adoption of emergency rules at its June 2002 meeting. At that time, the Department adopted the Secretary of State's existing rules verbatim with the exception of references to the authorized agency where "Secretary of State" was replaced with the "department".

During the development of these rules, Department staff sought input from registered waste tire haulers and a "roundtable" meeting with tire haulers was held in the Wallace building in August 2002. Through that process, the Department presented issues and concerns with the existing requirements, and sought comments, input and suggestions from those participating.

Outcomes of the roundtable meeting indicated support for changes to the rule, specifically in regard to the following areas:

- Locations where tire haulers take tires for final processing, storage, or disposal should be clearly noted and included as part of the registration process.
- Tire haulers should make a semi-annual report to the Department, denoting the quantity of waste tires they have collected.
- No temporary storage of waste tires should be allowed; all tires collected by the waste tire hauler should be promptly transported to permitted facilities for handling.

The new rule incorporates language to address the areas noted during the meeting with the tire haulers, and all registered waste tire hauler's will be provided with a copy of this rule at the start of the public comment period.

The new rule chapter will complement the Department's continued efforts in improving the effective management of waste tires in Iowa.

(A copy of the notice of intended action is available in the Department's Record Center)

Mel Pins said due to a law change in the last legislative session the Department of Natural Resources took over the registration of waste tire haulers. In order to get the program up and running the Department simply adopted the Secretary of State's rules as they were written. After reviewing the rules the Department is suggesting changes to ensure they are meeting the intent of the law. He reviewed the changes being proposed.

Motion was made by Kelly Tobin to approve the notice of intended action as presented. Seconded by Terry Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT -- SOLID WASTE ALTERNATIVES PROGRAM RECOMMENDATIONS

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Department received twenty-seven (27) proposals, requesting nearly \$4 million in financial assistance, for consideration during the October 2002 round of funding. Six (6) applicant projects were selected. If approved they will receive \$570,433 in a combination of forgivable loans, zero interest loans, and 3% interest loans.

The review committee consisted of five persons representing the Energy and Waste Management Bureau (Valerie Drew, Mel Pins), Iowa Society of Solid Waste Operations (Jeff Dworek), Iowa Recycling Association (Floyde Pelkey), and the Iowa Waste Exchange (Perry Nelson).

The table below summarizes recommendations by applicant and project type and by the type of award.

Recommended By Applicant Type	# Awards	Award Amount	Forgivable Loan Portion
Local Government	1	\$20,000	\$20,000
Private For Profit	5	\$550,433	\$79,083
Private Not For Profit	0	\$0	\$0

Recommended By Project Type	# Awards	Award Amount	Forgivable Loan Portion
Best Practices	1	\$143,750	\$43,750
Market Development	4	\$406,683	\$35,333
Education	1	\$20,000	\$20,000
Type of Award	# Awards	Award Amount	Forgivable Loan Portion
Forgivable loan only	3	\$55,333	\$55,333
Forgivable, Zero, 3% Interest loan	3	\$515,100	\$43,750

At this time, the Department is requesting Commission approval to enter into contracts with selected applicants whose awards will be in excess of \$25,000 (Krajicek Pallet, Inc., Sho-Dust Bedding, and Loffredo Fresh Produce Co., Inc.) subject to satisfactory review of business plans, negotiation of budget, match, deliverables, and other requested information.

A description of each recommended project, the project type, the amount and type of funding assistance is attached followed by a description of other proposals received but not recommended for funding.

(A copy of the proposals are available in the Department's Record Center.)

Wayne Gieselmann briefed the Commission on the item.

Rita Venner said she has a problem with giving Computer Renaissance \$20,000 to advertise that they are doing computer demanufacturing because they are a very successful business that has been in business for a very long time.

Valerie Drew said the review committee also shared that concern but this more of an expansion of the services that Computer Renaissance will be offering and it is more of an education and awareness campaign. They will not only be letting people know that they offer the service but they will also let them know about other places that computers can be taken to be refurbished. Electronics is one of the target waste streams that the Department is trying to do something with and they felt it would be good to have an established business that knows about consumers and their habits to take the lead.

Rita Venner asked if it would be strictly a media education campaign.

Valerie Drew said it would be and added that she is in the process of drafting the contract now so if the Commission had any specific requirements they would like added she would be glad to work with them. She said the review committee did discuss the fact that they did not want to use State dollars for the specific benefit of one company but they did not want to lock private

businesses out of this program because they are eligible under the program just as any government entity would be.

Darrell Hanson said he had a question about Seedorff Masonry Industries Company because he is aware of a company by the same name that has been around for a long time and the proposal said it is a nine year old company.

Valerie Drew said it is a subsidiary of the older company.

Motion was made by Lisa Davis Cook to approve the contracts as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

Wayne Gieselman said on December 9, 2002, Department staff went to out to the Humboldt County sites to check for ag drainage wells and to see if they were properly permitted and closed. There were two wells in question the first being in section 32 and the other in section 18. He passed around pictures of the well in section 32, which showed that it had been properly capped and bermed. He said Bill Ehm from the Department of Agriculture and Land Stewardship and Mike Anderson, from DNR were there with him to answer any questions the Commission may have. He then passed around a series of pictures of the well in section 18, showing that it had four surface intakes, which being a permitted ag drainage well, it was not supposed to have. In addition the pictures showed that the well had not been properly closed or bermed. He said D&S Cattle Company had voluntarily taken the two fields that drained to those ag drainage wells out of their manure management plan, which did not effect the permit because they had identified 600 acres for their manure management plan when they had only needed 300 acres. As far as the ag drainage well that has not been properly taken care of is concerned, there is a certain amount of county responsibility to make sure the requirements of the law are dealt with.

Mike Anderson said according to a 1980 Iowa State University and Iowa Department of Agriculture and Land Stewardship survey there were 292 ag drainage wells in the State. When the legislature passed the law in 1997, the Department of Natural Resources determined that 186 ag drainage wells needed permits but due to some of them being reclassified after field inspection there are now 160 active ag drainage wells in Iowa. The deadline for closing these wells was December 2001, however there were a few problems with getting drainage contractors out to do the work. He said when the landowners were delayed in getting the work done they were advised by the Department to get a permit to protect themselves and then to proceed with the work.

Lengthy discussion about the permitting process followed.

STATE OF IOWA PUBLIC DRINKING WATER PROGRAM - 2001 ANNUAL COMPLIANCE REPORT

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Department is submitting the *State of Iowa Public Drinking Water Program 2001 Annual Compliance Report* to the Environmental Protection Commission for information purposes.

The Safe Drinking Water Act (SDWA) Amendments of 1996 require the Department to issue an annual report of the SDWA violations in the state. This report fulfills the reporting requirement in Iowa for the 2001 calendar year. This is the fifth year an annual report has been prepared.

The data indicates that between 1998 and 2001 the number of health-based standards and major monitoring/reporting violations decreased.

This report was prepared by the Department's Water Supply Section in the Water Quality Bureau of the Environmental Protection Division. Development of the report was accomplished through the use of the state water supply database.

The report was distributed on November 21, 2002. Each public water supply listed in the report was notified of the availability of the report on the department's website. An electronic copy was provided to the Governor, legislative officials, EPA, and members of the SDWA Advisory Group.

The electronic report is available on the Department's web site. Copies of the printed report are also available to the public upon request.

Copies of the report will be provided at the December meeting.

(A copy of the Annual Compliance Report is available in the Department's Record Center.)

Wayne Gieselman briefed the Commission on the item.

INFORMATION ONLY

2002 SECTION 303(d) LIST

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

In August 2002, the Commission was provided with a draft 2002 Section 303(d) list. Subsequent to that meeting, the draft list was released for public comment.

The public comment period was scheduled to end September 19, but was extended until November 1 to provide the public with adequate time to analyze the list and prepare comments. Comments were received from approximately 30 parties, including environmental and agricultural groups and individuals. Very few water body-specific comments were received, with most comments focusing on the interpretation of Iowa's "credible data" law and how the law should be interpreted to develop the 2002 list. A responsiveness summary addressing the comments received is being prepared.

The draft list released for public comment contained 159 water bodies with 215 impairments (some water bodies were listed with more than one impairment). It is expected that the final list will have 185 water bodies with 250 impairments. The greatest change (addition of 21 lakes) was due to the use of a lake assessment methodology, known as the trophic state index (TSI) that attempts to characterize the impacts of nutrients. The lakes added are considered hyper eutrophic using the TSI methodology and violate narrative water quality standards of being free from aesthetically objectionable conditions and nuisance aquatic life (e.g., blue green algae). The TSI methodology was not used to prepare the draft list.

The proposed final 2002 Section 303(d) list and the responsiveness summary will be mailed separately to the Commission members prior to the December meeting. Staff members responsible for preparation of the list will be available to answer any questions on the proposed final list. It is expected the final list will be submitted to the Environmental Protection Agency for approval shortly after the Commission meeting.

(A copy of the 303(d) list is available in the Department's Record Center.)

Jack Riessen said this report had not been submitted to the EPA as of yet. The 303(d) list, because of the profile it has taken on nationally, is one of the things that no one is ever going to be completely happy with. The listing process must be an objective and verifiable process and must tie back to existing water quality standards. The EPA has to approve the list, if they choose not to approve it; they have to promulgate their own list for the State of Iowa. EPA could ignore Iowa's credible data law if they so choose. He said it is the Department's intent to submit this list to the EPA in the very near future, who by law have 30 days to approve or disapprove it.

Gary Priebe asked how can one water body be impaired in one section and not impaired in another.

Jack Riessen said the Department divides a river into segments, in some case we may have data for one segment and not others, and in other cases the impairment may be unique to that particular segment.

Lisa Davis Cook asked if the credible data law hindered the Department from listing waters that are known to be impaired.

Jack Riessen said there were some cases where that would be true but it was not a huge problem. There are more than enough water bodies on the list right now that the Department will need more staff and resources to address them.

Jerry Peckumn asked how the Department prioritizes which water bodies get a TMDL.

Chris Van Gorp said the priority schedule takes into account several different criteria. Human health concerns are a high priority where as some of the aquatic life impacts may be a lower or a medium priority. Also taken into consideration is whether or not a water body has an active lake association who are proactive in making a difference.

Jerry Peckumn asked if any of the TMDL's that had been written, were being implemented.

Chris Van Gorp said of the 27 that have been written, roughly half are being implemented.

Jack Riessen said if a water body is impaired primarily due to non point sources, such as agriculture, neither the Clean Water Act nor state law give the Department authority to regulate non point sources. Traditionally the Department has relied on voluntary measures to achieve non point source reduction.

INFORMATION ONLY

**EMERGENCY RULE CHAPTER 64, WASTEWATER CONSTRUCTION AND
OPERATION PERMITS (AMENDMENT)**

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

Commission approval is requested for a rule amendment to correct an error in a previous rule change dealing with storm water permits for municipalities.

In September 2002, the Commission adopted a final rule implementing various provisions dealing with the Department's storm water permitting program. One change dealt with the municipalities that will have to obtain permits for their municipal separate storm sewer systems (MS4s). These changes are mandated by new federal regulations known as Phase 2 storm water requirements.

The proposed MS4 changes were originally published as a Notice of Intended Action in July 2002. Unnoticed wording changes made by the code editor's office in the NOIA resulted in unintended, but substantive, changes to the rules. These changes, if implemented, will result in many more municipalities being required to apply for MS4 permit coverage than mandated by the federal requirements or intended by the original proposal.

The Commission is being asked to adopt this corrective amendment without public notice and participation so they will be in effect prior to the March 10, 2003 application deadline.

(A copy of the Emergency Rule is available in the Department's Record Center.)

Wayne Gieselman briefed the Commission on the rulemaking.

<i>Motion was made by Jerry Peckumn to approve the emergency rule making as presented. Seconded by Darrell Hanson. Motion carried unanimously.</i>
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APPROVED AS PRESENTED

**NOTICE OF INTENDED ACTION - CHAPTER 61, WATER QUALITY STANDARDS,
AND CHAPTER 72, CRITERIA FOR APPROVAL**

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

Commission approval will be requested for a Notice of Intended Action proposing changes to the state's water quality standards (WQS). These changes are being proposed as part of the ongoing review of Iowa's WQS in cooperation with an ad hoc WQS Technical Advisory Committee (TAC).

The NOIA, if approved, will initiate action to:

- Change the current Class A use from a single use designation of primary contact recreation to three designations as follows: Class A1 - Primary Contact Recreational Use, Class A2 - Secondary Contact Recreational Use, and Class A3 – Children's Recreational Use. The new designations are being proposed at the recommendation of the TAC to more accurately assess and designate the actual uses of water bodies. The existing Class A waters will be reassigned to one of these new use designations.
- Establish numerical criteria for bacteria using *E. coli* as the indicator bacteria and change the time period the standards apply. *E. coli* is considered to be a more accurate method of predicting pathogenic risk to humans due to recreational uses than fecal coliform bacteria, the current standard. The bacteria criteria will only apply when the indicated recreational uses are present and the recreational season for most waters will be changed from April 1 through October 31 to March 15 through November 15. For coldwater trout streams (Class B CW) or high quality (HQ) streams, recreation is assumed to occur the entire year and the bacteria standards will apply throughout the year. In addition, the rule-referenced document entitled "Supporting Document for Iowa Water Quality Management Plans, Chapter IV", July 1976, as revised in March 2003, will also be modified to reflect the new bacteria criteria and associated implementation details.
- Provide for a separate, rule-referenced document listing the use classifications of all waters currently listed in subrule 567 - 61.3(5), Surface Water Classifications. This action was recommended by the administrative code editor to ease maintenance and access of the list. Any future changes to the water body uses as provided in the rule-referenced document will still require EPC and EPA approval. The locations and or names of several water bodies will also be corrected and clarified in the process.
- Correct and clarify the locations and or names of several water bodies in subrules 567 - 61.2(2), Antidegradation Policy, and subrule 72.50(2), List of Protected Streams.

(A copy of the Notice of Intended Action is available in the Department's Record Center.)

Jack Riessen said the Department has revised the notice of intended action on page 4, item 2, which it has to do with bacterial standards in a loosing streams to address the concerns expressed by Steve Veysey and Jerry Anderson during public participation. As the rulemaking was previously written bacteria standards would have only applied to streams that are listed as Class A1, A2, or A3. They have revised the rule so that provision applies to all streams, including

those designated for general use. The Department is also proposing to add the reclassification of South Cedar Creek, which is a tributary to the Turkey River to this rulemaking. Under existing use designation a large portion of the creek is classified as a cold water trout stream. In 1998 or 1999 the City of Garnavillo's water treatment facility was having problems meeting the limits for discharge. At that time they requested that a segment of the creek that was classified as cold water trout stream be reclassified as general use. Department staff went out and looked at the fisheries at three different points in the proposed section, and determined that the stream did not merit a coldwater trout designation and recommended that it be reclassified as Class B limited resource water. There was opposition to that proposal and the Commission did not take any action on the reclassification, thus leaving it as it was. Through additional rulemaking, the Department changed their water quality standards for ammonia and adopted a new permit derivation procedure. When the city of Garnavillo's permit came up for renewal the Department issued a draft permit using those new standards and procedures. Consequently the ammonia amounts for the new permit were considerably higher than the old permit. There was an objection to the draft permit and the Department was asked to evaluate the section of stream of the cold water trout section to determine whether or not it should be reclassified as a cold water trout stream as well. Director Jeff Vonk asked the Fisheries Bureau to go out and perform an assessment of the stream and based on the water temperature and the presence of water cress which is a cold water species, it was their strong recommendation that this segment be added as a cold water stream. If this is reclassified as a cold water stream the City of Garnavillo will have to upgrade their water treatment plant to meet the new limits, which would be much more stringent and could cost up to one and a half million dollars. He asked the Commission for their input as to whether or not the reclassification of South Cedar Creek should be added to this rulemaking as they have proposed or if they felt it should be done under a separate rulemaking to allow the City of Garnavillo more time to have input. He said the Department would hold a separate public hearing near the City of Garnavillo for this rulemaking in addition to the six hearings that are all ready planned.

Kathryn Murphy asked if they would be able to separate the reclassification from the rulemaking at a later date if they were to approve the notice of intended action as it is presented.

Jack Riessen said that it would come back to the Commission as a final rule and at that time the Commission could choose to send it back out for additional comment. He said the problem the Department faces is that there is a draft permit, for which they have received an objection and a request for hearing that needs to be addressed.

Appointment Stuart Feldstien, Dave Gibbs, Ted Behrens

Stuart Feldstien said city became aware of the report that proposed the reclassification of the segment of the stream, which will affect the city, on December 6. The City of Garnavillo has approximately 720 residents and this change of classification will affect how the ammonia is dealt with, their ability to provide waste water treatment for their residents, and the cost they will have to incur to do that. The city's immediate concern is with the process, in most rulemakings the Department will bring together the various interest groups to discuss the proposed rules, however in this case this has not been done. Their preference would be for the interested parties to get together with the staff, before the Commission sends it out for comment. While the

Commission can pull it out later, they could do so now and give the interested parties the opportunity to address some of the concerns that they have.

Dave Gibbs said two years ago the Department proposed to declassify a portion of the coldwater, now after the draft permit was issued in October, which would raise their limits, someone does a stream survey and concludes that it should be classified as coldwater. That report was dated November 22, the City of Garnavillo saw a copy on December 6. Since the permit would be delayed by this process until March or April, he suggested that it might be a good idea to delay it a little further, not just for a public hearing, but to look at the field situation. There have been two different surveys by two separate sections of the DNR, who have found two different answers. He distributed and reviewed information that had been gathered on the stream and the City of Garnavillo.

(A copy of the handout is available in the Department's Record Center.)

Stuart Feldstein said they had put together a lot of information on pretty short notice that they felt should have been considered when making the decision to start rulemaking. They are not saying that the data was not considered but without having been part of the process they do not know for sure.

Veysey, Steve

Steve Veysey said the classification of the South Cedar Creek came to the attention of the Hawkeye Fly Fishing Association around 1999 when one of their members living downstream from the City of Garnavillo started complaining about some serious degradation of the trout fishing. After investigating this complaint they found that the waste water plant for the City of Garnavillo was having a serious impact on the stream. Information gathered through the EPA data bank showed that the facility was chronically out of compliance with ammonia limits and had been issued several notices of violation in an 18 month period. In 2001, the DNR stopped issuing notices of violation because they are not required to, but the noncompliance with the permit continued in about the same fashion. The three cell area of the lagoon that they use should have never been implemented in a coldwater stream watershed. Hawkeye Fly Fishing Association performed temperature, plant, and benthic macroinvertebrate studies on the stream and argued before the Commission that not only should the proposed section not be downgraded but that the stream should be assessed and upgraded. There are historical records that show that the stream never runs dry and is spring fed. According to the Iowa Code a stream cannot be designated general unless it is an ephemeral stream. Because of the change in the derivation process and because the assumption that the treatment capacity of the plant is well above the design capacity, the draft permit came out with an increase of 700% of the concentration of ammonia and a mass balance increase of 3,700% of the pounds per day of ammonia that can be discharged into South Cedar Creek. The Iowa Code requires that the Waste Water section of the DNR get input from the Fisheries section about the impacts to streams. If the City of Garnavillo disagrees with the classification there is a variance process where they can request a hardship variance, which will be a short term solution.

Kathryn Murphy asked why the northern section of 18 would not be included in the redesignation.

Jack Riessen said it was the recommendation of the Fisheries Bureau and there allegations that one of the major springs is at the northern edge of the section being proposed for reclassification.

Dave Moore the Regional Fisheries Administrators for the northeast region of Iowa said he was involved with the onsite survey. He said when they surveyed upstream from the treatment plant they found watercress. They took some temperatures, and used temperature readings from the Iowater sampling all of which indicated cold water.

Darrell Hanson asked what the temperature range was for a viable coldwater resource.

Dave Moore said there are a lot of factors and there is no magic cutoff point. Trout will survive in temperatures over 70 degrees for short periods of time as long as there is good oxygen present. However, the Department typically stops stocking at 70 degrees.

Darrell Hanson said he noticed that the temperature readings submitted this time seem to present a different picture than the temperature readings of the southern stretch that the Commission considered a couple years ago, which showed temperatures for over a month in the high 70's.

Dave Moore said that much of that depends upon where the springs are located. In some cases there is one large spring, but in many of Iowa streams there are many small stream inputs, therefore it is not unusual to get different temperature readings in different areas of the stream.

Motion was made by Lisa Davis Cook to approve the notice of intended action as presented. Seconded by Terry Townsend.

Motion was made by Darrell Hanson to amend the motion to remove the reclassification of South Cedar Creek from this rulemaking. Seconded by Lori Glanzman.

Darrell Hanson said the first time the reclassification of this water body was brought before the Commission it was viewed by some as a back door way for the city to deal with permit problems. Currently there are concerns that the reclassification is being pushed to try to find a back door way to undo the permit changes that have been made. The reclassification issue needs to be dealt with on its own through the cooperative effort of all parties involved. The Department should reclassify based on the nature of the stream and should issue permits based on standards and proper processes. He said he did not want to leave the impression that the Commission will use reclassification issues as a way to deal with disputes over permits.

Terry Townsend said he felt it made sense to leave it in because when this issue was dealt with before, the discussion centered on what the stream should be designated and not what its potential was based on its current use. He said he felt that there would be plenty of time for input from all parties through the regular rulemaking process.

The roll call vote for the amendment to the motion went as follows: Jerry Peckumn Aye; Lisa Davis Cook Nay; Lori Glanzman Aye; Darrell Hanson Aye; Gary Priebe Nay; Kelly Tobin Aye; Terry Townsend Nay; Rita Venner Aye; Kathryn Murphy Nay. Amendment to the motion failed.

Kathryn Murphy called for the vote on the original motion to approve the notice of intended action

Motion carried unanimously..

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION - CHAPTER 65 ANIMAL FEEDING OPERATIONS, CHAPTER 70, FLOOD PLAIN DEVELOPMENT; CHAPTER 71, FLOOD PLAIN OR FLOODWAY DEVELOPMENT - WHEN APPROVAL IS REQUIRED; CHAPTER 72, CRITERIA FOR APPROVAL (CONFINEMENT FEEDING OPERATIONS ON FLOODPLAINS)

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

Commission approval will be requested for a Notice of Intended Action that will initiate rulemaking to implement the provisions of SF 2293 prohibiting the construction of confinement feeding operations (CFOs) within floodplains.

SF 2293 prohibits the construction of all CFOs, regardless of size, within the 100 year floodplain of major water sources (i.e., navigable streams and lakes) provided the Department has “designated” the location of each such floodplain by rule. Until such time as the floodplains have been designated by rule, SF 2293 provides for a case-by-case process to identify such floodplains, but the legislation is unclear as to whether CFOs are prohibited in floodplains if the case-by-case process is used.

The rule amendments as drafted take the position that SF 2293 prohibits the construction of all CFOs on the floodplains of all navigable streams and lakes, regardless of the process used to identify or designate the floodplain. This position is consistent with the apparent consensus of the Commission as discussed at the October meeting.

(A copy of the notice of intended action is available in the Department’s Record Center.)

Jack Riessen said this rule will implement the prohibition on construction of animal feeding operations in the floodplains of major water sources. He said when this was brought before the Commission as an information item in October; the Department put together an issue paper that discussed the different interpretations of SF 2293. It was the interpretation of the Commission at that time that the intent of the legislation was to prohibit the construction of animal feeding operations in the floodplains of major water sources regardless of whether the Commission designated that floodplain by rule or did it on a case by case basis. This rule also clarifies that those operations that were being proposed in floodplains of smaller streams would still need to go through the regular floodplain permitting process.

Motion was made by Darrell Hanson to approve the Notice of Intended Action as presented. Seconded by Lori Glanzman. Motion carried unanimously.

APPROVED AS PRESENTED

REFERRAL TO THE ATTORNEY GENERAL

Mike Murphy, Chief of the Legal Services Bureau presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

M.A., Inc. and Mark Anderson [Burlington] wastewater penalty collection.

Mike Murphy said that Mr. Anderson had requested that this referral be delay for one month to allow him to come before the Commission.

Motion was made by Gary Priebe to table the referral of M.A. Inc to the Attorney General until the January 21, 2003 meeting. Seconded by Kelly Tobin. Motion carried unanimously.

TABLED

MONTHLY REPORTS

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	ARC#	RULES REVIEW COMMITTEE	HEARING	COMMENT PERIOD	FINAL SUMMARY TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	ARC#	RULES REVIEW COMMITTEE	RULE EFFECTIVE
1. Ch. 2. Public records and Fair Information Practices (Emission and Effluent Data Definitions)	10/21/02	11/13/02	2097B	12/11/02	---	12/03/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
2. Ch. 7. Rules of Practice in Contested Cases	10/21/02	11/13/02	2099B	12/11/02	---	*12/03/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
3. Ch. 20, Ch. 28 Ambient Air Quality Standards (CAFO)	7/22/02	8/21/02	1876B	9/10/02	9/17, 24, 30; 10/02	10/04/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
4. Ch. 22. Definition of Stationary Source Categories	5/20/02	6/12/02	1710B	7/09/02	7/11/02	7/26/02	11/18/02	11/18/02	12/11/02		*1/07/03	*1/15/03
5. Ch. 28 Ambient AQ Sampling Manual	8/19/02	9/18/02	1990B	10/09/02	10/08, 15, 16, 23/02	11/01/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03

6. Ch. 38 Private Water Well Construction Permits	4/15/02	5/15/02	16198	6/11/02	6/4/02 11-13/02	6/07/02	10/21/02	10/21/02	11/13/02	2096B	12/11/02	*12/18/02
7. Ch. 61 Water Quality Standards; Ch. 72 Approval	12/16/02	*1/08/03		*2/11/03			*3/17/03	*3/17/03	*4/16/03		*5/13/03	*5/21/03
8. Ch. 64 Wastewater Construction & Operation Permits							12/16/02	*12/16/02	*1/08/03		*2/04/03	*12/20/02
9. Ch. 65 Animal Feeding Operations Interim Matrix	7/22/02	8/21/02	1878B	9/10/02	9/10/02	9/10/02	NOTICE OF TERMINATION 11/18/02	11/18/02	12/11/02		*1/07/03	*1/15/03
10. Ch. 65 Animal Feeding Operations Journey Construction Evaluation Resolutions	8/19/02	9/18/02	1989B	11/12/02	10/08/02	10/08/02	12/16/02	*12/16/02	*1/08/03		*2/04/03	*2/12/03
11. Ch. 65 Animal Feeding Operations minimum separation Distance; Annual Compliance Fee; MMP renewal updates; site inspections; Permit application review; (Table 6 Amendment); Master Matrix	10/21/02	11/13/02	2101B	12/03/02	12/05/02	12/05/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
12. Ch. 65 Animal Feeding Operations; Ch. 70 Flood Plain Development; Ch. 72 criteria for approval (Confinement Feeding Operations on flood Plains)	12/16/02	*1/03/03		*2/11/03			*3/17/03	*3/17/03	*4/16/03		*5/13/03	*5/21/03
13. Ch. 82 Well Contractor Certification	4/15/02	5/15/02	1618B	6/11/02	6/4/02 11-13/02	6/07/02	10/21/02	10/21/02	11/13/02	2098B	12/11/02	*12/18/02
14. Ch. 103 - Sanitary Landfills (Rescission); Ch. 103 - Sanitary Landfills - Vol Combustion Residue; Ch. 112 - Sanitary Landfills - biosolids Monoliths; Ch. 113 - Sanitary Landfills - Municipal Solid Waste; Ch. 114 - Sanitary Landfills Construction & Demolition Wastes; Ch. 115 - Sanitary Landfills - Industrial Monoliths (Adoption); Ch. 101 - Scope of Title Definitions Forms Rules of Practice; Ch. 102 - Permits; Ch. 109 - special waste Authorizations; Ch. 111 - Financial Assurance requirements for Municipal Solid Waste Landfills (Amendments); Ch. 110 - Design, Construction and Operation Standards for Solid Waste Management Facilities (Name Change to Hydrogeologic Investigation and Monitoring Requirements).	8/19/02	9/18/02	1988B	10/09/02	10/08/02	10/08/02	11/18/02	11/18/02	12/11/02		*1/07/03	*1/15/03
15. Ch. 107 Beverage Container Rules	9/16/02	10/16/02	2049A	*11/12/02	11/07/02	11/07/02	12/16/02	*12/16/02	*1/08/03		*2/04/03	*2/12/03
16. Ch. 108 Beneficial Use Determinations Solid By-Products as Resources and Alternative Cover Material	11/18/02	12/11/02		*1/07/03	*1/08/03	*1/08/03	*2/17/03	*2/17/03	*3/12/03		*4/08/03	*4/16/03
17. Ch. 116 Registration of Waste Tire Haulers	12/16/02	*1/08/03		*2/11/03			*3/17/03	*3/17/03	*4/16/03		*5/13/03	*5/21/03
18. Ch. 117 Waste Tire Facilities (Set-Back Distances)	10/21/02	11/13/02	2100B	12/11/02	12/04/02	12/04/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
19. Ch. 118 Discarded Appliance Demanufacturing	3/18/02	4/17/02	1540B	5/15/02	5/14/02	5/14/02	*1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03

Monthly Variance Report

December, 2002

Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	John Deere Waterloo Works-Waterloo	Air Quality		Permit Requirements	Approved	11/06/02
2	Dial Corporation-Fort Madison	Wastewater Construction	Fox Engineering	Removable Aeration Diffusers	Approved	11/25/02
3	Sumner, City of	Wastewater Construction	Earth Tech, Inc.	Reliability	Denied	11/08/02

During the period November 1, 2002, through November 30, 2002, 52 reports of hazardous

conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Month Incidents	Substance				Mode					
	Total chemical	Agri-Products	Petroleum Chemicals	Other Facility	Transport	Fixed	Pipeline	Railroad	Fire	*Other
October	55 (73)	4 (9)	40 (51)	11 (13)	18 (28)	32 (36)	1 (2)	2 (0)	0 (2)	2 (5)
November	52 (72)	13 (8)	26 (49)	13 (15)	17 (28)	32 (33)	0 (2)	0 (1)	1 (0)	2 (8)
December	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	107 (145)	17 (17)	66 (100)	24 (28)	35 (56)	64 (69)	1 (4)	2 (1)	1 (2)	4 (13)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
7	12	8	8	10	7

**The "Other" column includes the categories from the database of – Dumping, Fire, Theft, Vandalism, Unknown and Other".

During the period November 1, 2002, through November 30, 2002, 12 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents Impacts	Feedlot Application	Confinement Water	Land	Transport	Hog	Cattle	Fowl	Other	Surface
October	10 (4)	0 (0)	5 (2)	1 (2)	4 (0)	9 (3)	1 (0)	0 (1)	0 (0)	1 (2)
November	12 (9)	0 (1)	4 (2)	3 (2)	5 (4)	12 (8)	0 (1)	0 (0)	0 (0)	0 (1)
December	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)

December 2002

Environmental Protection Commission Minutes

April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	22 (13)	0 (1)	9 (4)	4 (4)	0 (0)	21 (11)	1 (1)	0 (1)	0 (0)	1 (3)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
0	4	5	1	1	1

The following new enforcement actions were taken last month:

Name, Location and
Field Office Number
Action Date

Program

Alleged Violation

Carroll County Board of Supervisors (4)	Wastewater	County Implementation of Private Sewage	Order	10/30/02
Carleton Transport Service, Sioux Rapids (3)	Wastewater Hazardous Conditions	Prohibited Discharge; Failure to Notify	Order/Penalty \$5,000	10/30/02
Chelsea, City of (5)	Wastewater	Monitoring/Reporting; Compliance Schedule; Discharge Limits; Operational Violations	Order/Penalty \$3,000	10/30/02
Harry F. Trafton; Trafton Enterprises, Inc. and Interstate Lounge, Inc., Underwood (4)	Underground Tank	UST Closures	Order/Penalty \$6,800	11/01/02
Jeff Reed d/b/a Reed's Service, Lenox (4)	Underground Tank	Site Assessment; Remedial Action	Order/Penalty \$7,250	11/07/02
Richard Ogden, Manchester (1)	Drinking Water	Uncertified Well Driller	Order/Penalty \$2,500	11/08/02

St. Luke's Medical Center, Sioux City (3)	Regional Air Quality	Permit Conditions		Order/Penalty \$2,000		11/13/02
Carl Simon, Dubuque Co. (1)	Animal Feeding Operation	Prohibited Discharge Confinement; Freeboard	–	Order/Penalty \$5,000		11/13/02
Adair, City of (4)	Wastewater	Compliance Schedule		Amended Order		11/19/02
Vessel Systems, Inc. Dubuque (1)	Air Quality	Construction Permit	Without	Referred AG	to	11/18/02
Oran Pub & Grill, Fairbank (1)	Drinking Water	Monitoring/Reporting Nitrate; Permit Renewal Fee; Public Notice	–	Referred AG	to	11/18/02
John C. Kelso, Worth Co. (2)	Animal Feeding Operation	Failure to Submit Plan		Referred AG	to	11/18/02
Don Johansen d/b/a Bog's Bar, Lanworthy (1)	Drinking Water	Monitoring/Reporting Bacteria	–	Referred AG	to	11/18/02
Mobile World, L.C., Clinton (6)	Wastewater	Monitoring/Reporting; Operational Violations		Referred AG	to	11/18/02
Bubba's Bar & Grill, Cresco (1)	Drinking Water	Monitoring/Reporting Nitrate; Public Notice	–	Referred AG	to	11/18/02

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Keith Owens and Howard Maurer (Wilton)	UT	3,100	1-01-96
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
Sale-R-Villa Const., Inc. (Perry)	AQ	7,000	4-28-98
Larry Cope, Susan E. Cope, Bill VanPelt (Carlisle)	WW	1,500	5-05-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
Charlie's Supper Club (Algona)	WS	100	7-01-99
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	7-26-99
* Hidden Valley Mobile Home Park (Washington)	WW	200	12-12-99

Dorchester Supper Club (Dorchester)	WS	100	3-08-00
Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
Don Casterline; Myron Casterline (Van Wert)	UT	2,000	6-14-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Robert Watson (Griswold)	UT	1,700	9-03-00
Mt. Joy Mobile Home Park (Davenport)	WS	1,500	11-23-00
Country Stores of Carroll, Ltd. (Carroll)	UT	4,700	1-17-01
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Paul Riha d/b/a Riha Auto Sales (Vining)	UT	1,200	5-06-01
Iowa Skate U (Iowa Falls)	WS	500	5-11-01
Dallas O'Neal; Linda O'Neal (Council Bluffs)	UT	750	6-05-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
David and Marie Phillips (Milo)	WW	1,300	7-09-01
T V S, Inc.; Thomas Kockler d/b/a The Van Shack (Manly)	AQ	2,000	7-28-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,800	8-01-01
Carpenter Bar & Grill (Carpenter)	WS	100	9-28-01
Minnesota Rubber Company (Mason City)	AQ	1,000	9-30-01
* R.V. Hopkins, Inc. (Davenport)	AQ	Int.	10-01-01
Mark Buringrud fdba Carpenter Bar & Grill (Carpenter)	WS	2,500	10-26-01
Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	4,000	10-27-01
Louisa County Regional Solid Waste Agency	SW	1,250	10-27-01
Bulk Petroleum Corp.; Break Point Stores #537 (Bondurant)	UT	1,000	12-02-01
Bulk Petroleum Corp.; Four Mile Texaco #536 (Des Moines)	UT	1,000	12-02-01
Elite, Ltd.; FS Energy Fuel 24, LLC; Roger Kanne	UT	3,400	12-03-01
# Dave Hansel (Hamilton Co.)	AFO	1,300	1-26-02
Crestview Trailer Park (Ames)	WS	2,500	1-28-02
Jolly Roger Recreation and Marine, Inc. (North Liberty)	WW	2,000	2-05-02
Coralville, City of	WW	3,000	2-11-02
# Norm O'Bannon d/b/a O'Bannon Finishing (Buena Vista Co.)	AFO/SW	2,500	2-14-02
# Troy DeGroote; Casey DeGroote (Butler Co.)	AFO/AQ/S W	1,100	3-08-02
Days Inn 2 nd Addition (Williamsburg)	WS	10,000	4-07-02
* Steve Friesth (Webster Co.)	AQ/SW	450	4-15-02
* Kiefer Built, Inc. (Kanawha)	AQ	2,500	5-30-03
Iowa Coaches, Inc.; David Sherman (Dubuque)	UT	3,960	5-03-02
Honey Creek Campground (Crescent)	WS	1,000	4-30-02
Moonshine Tap (New Hampton)	WS	300	4-30-02
Iowa Skate U (Iowa Falls)	WS	600	5-11-02

# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
John Jolin; Michael Kolbold (Sioux City)	UT	5,760	6-23-02
Ellis Implement, Inc.; Douglas Shaffer (Coggon)	UT	2,170	6-25-02
Sid's Gas & Groceries (Forest City)	WS	200	6-26-02
Coin, City of	WS	250	6-28-02
St. John's Lutheran Church (Greene)	WS	250	7-02-02
Dave Paplow (Indianola)	AQ/SW	5,000	7-05-02
Leonard Anderson (Linn Grove)	UT	1,160	7-09-02
Mitchell Town Pump (Mitchell)	WS	500	7-09-02
Air Bears II (Thompson)	WS	300	7-13-02
Robert Marburger (Sabula)	UT	2,940	7-15-02
Meadow Mist Motel (Fayette Co.)	WS	500	8-12-02
Rocky Knoll Mobile Home Park (Forest City)	WS	10,000	8-18-02
Timothy Eischeid (Carroll Co.)	SW	2,000	8-25-02
Park View Motel (Oelwein)	WS	750	9-06-02
* Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	1,750	9-15-02
Brett George d/b/a Cedar Valley Tree Service; John Sohm	AQ/SW	1,750	9-15-02
Midway Oil Co.; David Requet (Davenport)	UT	6,430	9-20-02
##Mark Pearson (Adams Co.)	AFO	165	9-23-02
Dan Carnicle; Beaver Service & Repair; Sharon Carnicle	UT	2,500	10-04-02
# Kenneth Kline; Lynn Kline (Harrison Co.) SEP	AFO	3,500	10-04-02
* John Smith d/b/a Four Corners Tap (Lockridge)	AQ/SW	350	10-15-02
Braddyville, City of	WW	3,500	10-31-02
##Roger Bockes, et. al. (Tama Co.)	AFO	1,600	11-01-02
M.A., Inc.; Spring Grove Mobile Home Park (Burlington)	WW	7,000	11-01-02
M.A., Inc.; Westside Park for Mobile Homes (Lee Co.)	WW	7,000	11-01-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
Thombert, Inc. (Newton)	AQ	2,500	11-14-02
* Winter Mobile Home Park (New Hampton)	WS	1,150	11-15-02
Matter's Ballroom (Decorah)	WS	300	11-29-02
Van Meter Development Corp.; Whispering Pines (Van Meter)	WW	2,000	12-01-02
Sapp Bros. Truck Stops, Inc. (Percival)	WS	8,000	12-01-02
* Allison, City of	AQ	4,500	12-01-02
##Robert Fisher (Hamilton Co.)	AFO	1,400	12-01-02
* Quality Mat Co., Inc. (Waterloo)	AQ	5,696	12-01-02
Mitchell County; Mitchell County Engineer	AQ/SW	375	12-12-02
Trajet Products, Inc. (Glenwood)	AQ	7,000	12-14-02
Monte Lapel (Crawford Co.)	SW	1,300	12-15-02
* George Redman (Mitchellville)	AQ	3,767	12-15-02
* Paul L. Nagle (Clear Lake)	AQ	800	12-15-02

* Joe & Mary Schuster d/b/a Better-Flo (Callendar)	AQ/SW	700	12-15-02
Wilbur McNear d/b/a McNear Oil Co. (Onawa)	UT	5,930	12-17-02
Audubon, City of	WW	10,000	12-18-02
Finley Mondia (West Chester)	UT	6,430	12-23-02
Lewis Contracting Co.; Randy Lewis (Red Oak)	WW	3,500	12-25-02
Harry F. Trafton; Trafton Enterprises; Interstate Lounge	UT	6,800	1-13-03
Jeff Reed d/b/a Reed's Service (Lenox)	UT	7,250	1-12-03
# Carl Simon (Dubuque Co.)	AFO	5,000	1-17-03
St. Luke's Regional Medical Center (Sioux City)	AQ	2,000	1-17-03
Midwest Farmers Coop (Sheldon) Natural Resources	WW	75,000	6-30-03
Damages			
Carleton Transport Service, Inc. (Sioux Rapids)	WW/HC	5,000	-----
Richard Ogden (Manchester)	WS	2,500	-----
Independence Mobile Home Park (Independence)	WS	800	-----
Deer Ridge Estates (Ottumwa)	WS	100	-----
Rayburn Court for Mobile Homes (Mason City)	WS	500	-----
Allan Scott (Marion Co.)	SW/WW	1,150	-----
Sanborn P & L, Inc.; Douglas R. Bras (Sioux City)	UT	3,040	-----
TOTAL		376,318	
The following cases have been referred to the Attorney General:			
Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Russell Barkema d/b/a Barkema Construction	AQ/SW	1,000	3-31-98

(Wright Co.)

Action Jack's Paintball Park (Polk Co.)	SW/FP	10,000	11-07-98
#*Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/W W	3,000	11-04-98
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	10,000	
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition;	AQ/SW	1,000	7-01-00
Clara Lindstadt (Des Moines Co.)			
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
* Lester Holmes; Todd Holmes (Lucas County)	AQ	4,000	10-15-00
Crestview Mobile Home Park (Ames)	WW	10,000	8-30-00
10 th Hole Food & Spirits (Calamus)	WS	1,000	3-14-00
Lindahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
Wisconsin North dba National Petroleum, Inc. (Clinton)	UT	5,000	8-04-01
Wisconsin North dba National Petroleum (Clinton)	UT	2,840	8-21-01
Michael Bauer (Davenport)	UT	5,100	3-13-01
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500	8-01-01
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000	9-18-01
Marvin Oberly (Burlington)	WW	1,300	6-27-01
Richard Davis (Monroe Co.)	AQ	8,000	6-25-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	3,200	8-18-02
Ryan Barton; Theresa Barton (Kellerton)	AQ/SW	1,000	5-27-02
Jerry Chatfield; North Iowa Truck and Tractor (Floyd)	SW/WW	3,000	8-18-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
Vessel Systems, Inc. (Dubuque)	AQ	10,000	5-31-02
Oran Pub & Grill (Fairbank)	WS	100	6-03-02
Bog's Bar (Langworth)	WS	400	9-23-02
# John C. Kelso (Worth Co.)	AFO	1,500	7-29-02

		TOTAL	202,794
The following administrative penalties have been appealed:			
NAME/LOCATION	PROGRAM	AMOUNT	
Titan Wheel International, Inc. (Walcott)	WW	10,000	
Dennis Malone & Joanne Malone (Morning Sun)	UT	600	
Dallas County Care Facility (Adel)	WW	2,500	
Richard Sprague (Tripoli)	AQ/SW	5,000	
Bellevue Golf Club, Inc. (Bellevue)	WS	300	
Brittany Estates Addition (Manchester)	WS	4,000	
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000	
Robert Diehl (Clarke Co.)	WW/WS	5,000	
* Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	5,000	
# Bernadette Ryan (Delaware Co.)	AFO	3,000	
Dayton, City of	WW	10,000	
Gerald and Judith Vens (Scott Co.)	FP	5,000	
Affordable Asbestos Removal, Inc.; Jeffry Intlekofer (Ft. Madison)	AQ	10,000	
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000	
# Dan Witt (Clinton Co.)	AFO	3,000	
Twin Anchors R.V. Resort, Inc. (Story Co.)	WW	5,000	
# Thomas and Jane Kronlage (Coggon)	AFO	3,000	
The Farmers Co-Operative Society d/b/a Wesley Coop	AQ	5,000	
Freisen of Iowa, Inc. (Storm Lake)	AQ	10,000	
Linwood Mining & Minerals Co. (Davenport)	AQ	10,000	
Duane Crees (Muscatine Co.)	AQ/SW	1,160	
R. Excavating, Inc.; Randy Golden (Pottawattamie Co.)	WW	10,000	
# Floyd Kroeze (Butler Co.)	AFO	3,000	
Richard Thompson d/b/a/ Thompson Auto Parts (Story Co.)	WW/SW	1,000	
# Burco Farms, Inc. (Buchanan Co.)	AFO	3,000	
Wayne Wheatley; Wheatley Auto and Truck Service (Walnut)	UT	3,900	
Eagle Investors dba Manson Ampride (Manson)	UT	4,650	
Noble Ford Mercury, Inc. (Indianola)	WW	5,000	
John Hoth (Tama)	UT	9,250	
Tama Beef Packing, Inc. (Tama)	WW/SW	1,000	
Bulk Petroleum Corp. dba Citgo No. 596 (Des Moines)	UT	1,600	
Midway Oil Company (West Branch)	UT	7,300	
Midway Oil Company (Davenport)	UT	5,790	

Long Branch Maintenance Corp. (Earlham)	WW	5,000
Earlham, City of	WW	10,000
Lenertz, Inc.; Fred G. Lenertz; Lawrence Lenertz (Tama)	UT	10,000
Lawrence Korver d/b/a Korver Development (Orange City)	WW	5,000
Sir Fredericks, Inc.; Fred Scherle (Ankeny)	UT	2,280
Feeders Grain Supply; James & Carolyn Curtis (Corning)	WW/HC	6,000
LeMars, City of	WW	10,000
Dallas County Care Facility (Adel)	WW	5,000
# Max and Phyllis Graber; Burdean Graber (Washington Co.)	AFO	2,000
Keith Shoterau; Hopp Construction Co. (Shelby Co.)	WW	5,000
Roger Eblen; Eblen Develop.; Duane Menke; Negus-Sons	WW	10,000
(Whispering Woods – Council Bluffs)		
Robert Ward (Lee Co.)	WW	1,450
Partners Four Investments, Inc. (Marble Rock)	UT	5,280
Mike Messerschmidt (Martinsburg)	AQ/SW	500
Well's Dairy, Inc. (LeMars)	WW	10,000
William Habhab (Fort Dodge)	SW	1,500
# Lawrence Handlos (Audubon Co.)	AFO	3,000
# Kris King (Audubon)	AFO	500
Dennis Frederickson; Mark Frederickson (Cass Co.)	AQ/SW	5,000
Piper Motor Co.; Bruce Piper d/b/a Super Clean Car Wash	WW	10,000
Minden, City of	WW	3,000
Jones Co. Conservation Board; Central Park	WS	250
Arthur, City of	WW	2,000
# Avery Feeder Pig Co. (Humboldt Co.)	AFO	3,000
Wellington Environmental (Davenport)	AQ	4,000
# Swine Graphic Enterprises; ADL V Sow Farm (Clarke Co.)	AFO	1,000
James Wilson; Retha Wilson; William Wilson (Shenandoah)	UT	4,740
Emer Carlson (Fairfield)	AQ	6,500
Deer Track Subdivision; F & J Enterprises (Mills Co.)	WW	4,000
ITWC, Inc. (Brooklyn)	AQ	7,500
Marion F. Murray; Murray's Transfer & Storage (Davenport)	UT	2,480
Wellington Environmental (Iowa City)	AQ	1,000
Grinnell Properties, Inc.; David Hamilton (Grinnell)	UT	5,920
Kevin Wallerich (Keota)	SW/WW	500

# Frank Siemans (Wright Co.)	AFO	3,000
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Waukon Golf and Country Club (Waukon)	UT	2,480
College Pro Painters (U.S.), Ltd. (Ames)	WW	10,000
Nevada, City of	WW	9,000
Mt. Pleasant, City of	WW	500
Lehigh Portland Cement Co. (Mason City)	WS	300
Richard and Charlotte Caves (Oskaloosa)	HC	10,000
# Jason Strike (Allamakee Co.)	AFO	1,200
Garry B. Pellett; Pellett Chemical Co.; Charles R. South	UT	2,645
Clifton Clark (Moorhead)	AQ/SW	1,500
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Peter Cook (Grand Mound)	AQ/SW	5,000
Stanley Siems (Hardin Co.)	AQ/SW	7,500
Taylor Oil Co., Inc.; Taylor Quik-Pik (Shelby)	AQ	1,000
M. Poe Investments, Inc.; Advanced Technologies Corp.	AQ	4,000
(Cedar Falls)		
Caldwell Meats, Inc.; James Caldwell	UT	1,990
(Marshalltown)		
Charles Butler (Hardin Co.)	AQ/SW	1,000
Walker Brothers Livestock Corp. (Washington)	WW	5,000
Fran Oil Company (Council Bluffs)	UT	3,500
# Iowa Select Farms, L.P.; Stockdale Sow Unit	AFO	10,000
(Hardin Co.)		
Sully Transport; Bice Oil Co.; Tim Bice (Guthrie Co.)	WW/HC	5,000
Schell Family Partnership (Boone Co.)	HC/SW	5,000
River City Development; Russell Hardy (Mason City)	UT	2,480
Chelsea, City of	WW	3,000

TOTAL 407,545

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
*#Robert Fisher (Hamilton Co.)	AFO	100
* Jeff Dean (Mills Co.) PAID IN FULL	AQ/SW	400
*#Roger Bockes, et. al. (Tama Co.)	AFO	100
* Kiefer Built, Inc. (Kanawha)	AQ	2,500
* R.V. Hopkins, Inc. (Davenport)	AQ	500
Barry DeLoss; DeLoss Construction (Spencer)	AQ	500
Cordes Excavating; Clint Cordes (Allison)	AQ	500
* Allison, City of	AQ	500
# Rome Pork, L.L.C.; William Huber (Jefferson Co.)	AFO	2,000
Bubba's Bar & Grill (Cresco)	WS	175

* Paul L. Nagle (Clear Lake)

AQ 100

TOTAL 7,375

The following SEP payments were received:

Sac City, City of

WW 2,400

Poweshiek Water Assoc. (Benton Co.)

WW/HC 2,000

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
ABC Disposal Systems Hiawatha (1)	Solid Waste	DNR Defendant	Defense	Petition Filed Answer Petitioner's Brief State's Brief Hearing	6/26/02 7/17/02 8/30/02 9/18/02 10/07/02
Affordable Asbestos Removal, Inc.; Jeffrey Intelkofer Iowa City (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Motion for Partial Summary Judgment Ruling Denying Motion Trial Date	3/20/00 4/19/00 2/26/01 4/20/01 12/09/02
Affordable Asbestos Removal, Inc. Jeffrey Intelkofer Iowa City (6)	Air Quality	DNR Defendant	Defense	Petition Filed Answer Ruling Defendant's Notice of Appeal State's Brief Defendant's Brief	12/28/00 1/18/01 7/09/01 7/30/01 6/06/02 6/07/02
Barton, Randy and Theresa Kellerton (4)	Air Quality	Open Burning	Order/Penalty	Referred	10/21/02
Bauer, Michael Davenport (6)	Underground Tank	Site Assessment	Order/Penalty	Referred Petition Filed State's Motion for Default Judgment	2/18/02 8/08/02 9/23/02
Bee Rite Tire Disposal, Inc. Rhodes, State Center (5)	Solid Waste	Solid Waste Violations	Order/Penalty	Referred	5/20/02
BCD Corporation Council Bluffs (4)	Wastewater	Operation Without Permit; Pollution Prevention Plan Violation	Order	Referred	7/22/02
Chatfield, Jerry d/b/a North Iowa Truck and Tractor Floyd (2)	Solid Waste Wastewater	Illegal Disposal; Operation Without Permit	Order/Penalty	Referred	10/21/02
Davis, Richard Wapello Co. (6) UPDATED	Air Quality	Asbestos	Order/Penalty	Referred Petition Filed	8/19/02 11/27/02
Golden, Randy S.; R. Excavating Council Bluffs (4)	Wastewater	DNR Defendant	Defense	Petition Filed Answer	4/16/02 5/09/02
Huyser, James; Trust Trucking Lovilia (5)	Underground Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed	11/21/94 4/18/96 9/20/96 9/20/96

Iowa Select Farms, L.P. Sow #7 Hamilton Co. (4)	Animal Feeding Operation	Prohibited Discharge Confinement	–	Referred to Attorney General	Referred	2/18/02
Johansen, Don d/b/a Bog's Bar Langworthy NEW	(1) Drinking Water	Monitoring/Reporti ng- Bacteria		Order/Penalty	Referred	11/18/02
Johnson, Shelly Lynn d/b/a Oran Pub & Grill Fairbank NEW	(1) Drinking Water	Monitoring/Reporti ng-Nitrate; Permit Renewal Fee; Public Notice		Order/Penalty	Referred	11/18/02
Kelso, John C. Worth Co. NEW	(2) Animal Feeding Operation	Failure to Submit Plan		Order/Penalty	Referred	11/18/02
Ledenbach, Jim d/b/a Paper Recovery Cedar Rapids (1)	Solid Waste	Illegal Disposal		Order/Penalty	Referred Petition	4/17/99 6/01/01
Lehigh Portland Cement Co. Mason City (2)	Air Quality	Construction Without Permit		Referred to Attorney General	Referred Petition Filed Trial Date Trial Continued	8/17/98 11/05/99 10/29/02
Lindahl, Don and Tim d/b/a Lindahl & Sons Salvage Boone (5)	Air Quality Solid Waste	Open Burning Illegal Disposal		Order/Penalty	Referred	5/21/01
Matrix Metal, LLC d/b/a Keokuk Steel Castings Keokuk (6)	Air Quality	Emission Limits		Referred to Attorney General	Referred	1/22/02
M-F Real Estate, Inc.; Fred Levell Carter Lake (4)	Hazardous Condition	Remedial Action		Order/Penalty	Referred	9/16/02
Mills County Landfill Association Mills Co. (4)	Solid Waste	DNR Defendant		Defense	Petition Filed Intervention by Iowa Waste Systems State's Answer	9/26/01 5/02/02 5/20/02
Mobile World L.C. Clinton NEW	(6) Wastewater	Monitoring/Reporti ng; Operational Violations		Order/Penalty	Referred	11/18/02
Morgan, Ron d/b/a Action Jack's Paintball Park Polk Co. (5)	Solid Waste	Illegal Disposal		Order/Penalty	Referred	2/15/99
Nelson, Paul d/b/a Crestview Mobile Home Park Ames UPDATED	(5) Wastewater	Discharge Limits		Order/Penalty	Referred Petition Filed Default Entered	2/19/01 3/20/02 11/12/02
Oberly, Marvin Burlington (6)	Wastewater	Operation Without Permit		Order/Penalty	Referred	7/15/02
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)	Solid Waste	Permit Violations		Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary Injunction	12/15/97 10/02/98 2/04/99 4/19/99

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					Trial Date	9/13/00
					Partial Judgment (Clean-up Order)	9/28/00
Schoenberr, R. B. d/b/a Long Branch Tavern Monmouth NEW	(1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred Court Order Re-Referred	6/20/97 12/09/98 11/21/02
Smesrud, Shannon d/b/a Bubba's Bar & Grill Cresco NEW	(1)	Drinking Water	Monitoring/Reporting-Nitrate; Public Notice	Order	Referred	11/18/02
Vessel Systems, Inc. Dubuque NEW	(1)	Air Quality	Construction Without Permit	Order/Penalty	Referred	11/18/02
Wisconsin North, LLC d/b/a National Petroleum Co. UST #8606997 Clinton (6)		Underground Tank	Failure to Initiate Corrective Action-CDR	Referred to Attorney General	Referred	10/21/02

Date Received	Name of Case	FO	Action Appealed	Program	Assigned To	Status
11/03/89	Bridgestone/Firestone, Inc.	5	Site Registry	HC	Tack	Hearing continued pending negotiations. Settlement proposed 8/96. Updated site evaluation to be submitted in 11/02.
7/02/90	Keokuk Savings Bank and Trust; Keokuk Coal Gas Site	6	Site Registry	HW	Tack	Hearing continued. Status report requested from land quality bureau on 12/1/99.
7/30/90	Key City Coal Gas Site; and Howard Pixler	1	Site Registry	HW	Tack	Decision appealed (Pixler) Site remediation completed. Status report requested from land quality bureau 12/1/99.
5/12/92	Paris & Sons, Inc.	1	Site Registry	HC	Wornson	Bankruptcy dismissed. Negotiations with creditor to enroll in LRP and complete site assessment.
4/05/93	Mapleton, City of	4	WW Operator Certification	WW	Hansen	7/01 – City referred for Admin. Order for wastewater violations. 3/29/02 – Dept. engineer reviewing information submitted by City. Status report requested.
10/07/94	Titan Wheel International	6	Admin. Order/Penalty	WW	Hansen	1/31/02 – Dept. letter to company regarding resolution of appeal. 2/7/02 – Call from company attorney regarding letter. 3/29/02 – Dept. follow-up letter regarding prior letter.
9/20/95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	6	Admin. Order	WW/HC	Tack	7/25/02 – Settlement offer sent. Response promised for October.
1/25/96	Hidden Valley Mobile Home Park	6	Admin. Order/Penalty	WW	Clark	9/12/02 – Tentative penalty settlement subject to correction of recent inspection deficiencies.
7/22/97	Robert P. Frees; Elizabeth R. Mathes	6	Admin. Order/Penalty	SW	Tack	Settlement reached. Cleanup underway.
1/16/98	Pilgrim Heights Camp		NPDES Permit Conditions	WW	Hansen	5/1/01 – WW staff contacted regarding resolution of appeal. 7/31/01 – Status report request from WW permits section. 9/28/01 – WW Permits Section

						contacted regarding resolution of appeal.
11/30/98	Robert Diehl	5	Admin. Order/Penalty	WW/WS	Murphy	5/1/01 – Preliminary engineering report approved 3/01. NPDES permit issued 3/28/02 with compliance schedule. Will monitor for compliance.
12/16/98	Richard Swailes		Permit Denial	FP	Clark	10/02/02 – Hearing continued indefinitely pending settlement negotiations.
1/13/99	Bernadette Ryan	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
3/04/99	Dayton, City of	2	Admin. Order/Penalty	WW	Murphy	2/14/02 Amended order. New facilities to be completed this year.
3/18/99	Ag Processing, Inc. (Sergeant Bluff)		Title V Operation Permit Conditions	AQ	Preziosi	7/02 – One issue of appeal remains to be settled.
4/26/99	Gerald and Judith Vens	6	Admin. Order/Penalty	FP	Clark	Negotiating before filing.
7/27/99	Affordable Asbestos Removal; Jeffry Intlekofer	6	Admin. Order/Penalty	AQ	Book	Hearing held 4/28/00. Judgment for DNR 11/20/00 - EPC affirmed ALJ's proposed decision. Petition for judicial review filed 12/28/00. Linn County District Court issued ruling and affirmed in part, remanded in part. Affordable has filed an appeal to the Supreme Court on the ruling. 8/01 - Company filed a motion to stay Supreme Court portion until the ALJ rules on the remanded portion. Supreme Court denied motion; ALJ will now rule on the remanded portion of the decision, awaiting the ALJ decision. ALJ decision cut penalty in half – remainder of case on appeal with Supreme Court. Case being handled by AG. DNR involvement is over. Case still with Supreme Court. Oral arguments set for 12/3/02.
9/08/99	Linwood Mining & Minerals	6	Permit Conditions	AQ	Preziosi	Settlement close.
9/10/99	Linwood Mining & Minerals	6	Permit Denial	AQ	Preziosi	Negotiating before filing.
10/22/99	Robert Fisher	2	Admin. Order/Penalty	AFO	Clark	9/30/02 – Penalty settlement offer accepted. Monthly installments commence 10/30/02.
11/15/99	Rocky Knoll Mobile Home Park	2	Admin. Order/Penalty	WS	Tack	Compliance achieved. Penalty settled for \$3,000. Payment plan initiated.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
4/14/00	Stateline Cooperative	2	Admin. Order	HC	Wornson	Tier 2 report submitted 11/28/00. High risk. review for further corrective action.
4/24/00	Carroll, City of	4	Permit Conditions	WW	Hansen	9/9/02 – Letter received from city engineer regarding compliance schedule and appeal issues. 10/24, 25/02 – Letters received from City engineer regarding appeal and WWTF improvements.
4/26/00	State Wide Metal Recycling, Inc.; Fred Bovee	5	Admin. Order	SW/HC	Tack	Delaware Ave. site clean-up is complete. Broadway site is nearly completed. Final waste removal scheduled for 7/02.

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6/14/00	Quality Mat Co., Inc.	1	Admin. Order/Penalty	AQ	Book	4/3/01 – Decision affirming the order. 5/21/01 – EPC finalized decision. Settled. 8/01 – Admin. Consent Order signed by facility for payment plan. Signed order received. First payment received 12/21/01.
7/13/00	Dan Witt	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
8/11/00	Twin Anchors RV Resort	5	Admin. Order/Penalty	WW	Tack	Construction permit issued 10/24/02. 90-days to complete construction. Penalty to be negotiated after compliance is achieved.
8/11/00	Kiefer Built	2	Admin. Order/Penalty	AQ	Preziosi	Settled. Penalty payment plan established. 5/02 – First two penalty payments received.
9/05/00	Thomas Kronlage	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
9/27/00	Farmers Cooperative Society (Titonka)	2	Admin. Order Penalty	AQ	Preziosi	Settled. Awaiting return of signed consent amendment.
10/02/00	Agriprocessors, Inc.	1	Variance Denial		Murphy	3/1/02 – City/industry progressing with facility improvements.
10/03/00	Friesen of Iowa, Inc.	3	Admin. Order/Penalty	AQ	Preziosi	Hearing set for 1/21/03.
10/06/00	Linwood Mining & Mineral Corp.	6	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10/06/00	Duane Crees	6	Admin. Order/Penalty	AQ/SW	Tack	Default judgment to be entered in favor of Dept. Appeal closed. Penalty due.
10/20/00	AGP, Ag Processing	6	Permit Conditions	AQ	Preziosi	AGP has sold this facility. Checking with new owner regarding interest in appeal issue.
11/20/00	Randy Golden d/b/a R. Excavating	4	Admin. Order/Penalty	WW	Tack	Petition for judicial review filed. AG to handle.
11/22/00	Fansteel-Wellman Dynamics	4	Permit Conditions	SW	Tack	DNR to defer to EPA consent order. Permit to be amended to resolve appeal and acknowledge EPA order.
12/01/00	Postville, City of	1	Admin. Order	WW	Murphy	3/1/02 – City/industry progressing with facility improvements.
12/05/00	Braddyville, City of	6	Admin. Order/Penalty	WW	Hansen	1/25/02 – Dept. settlement offer to City Attorney. 2/1/02 – City Attorney accepted offer. 3/02 – Settled. Consent order to be entered into. 7/1/02 – Dept. letter with consent order to city attorney. 7/22/02 – Consent order signed by Director and issued. 7/29/02 – City attorney sent motion to dismiss appeal to ALJ. 8/5/02 – ALJ issued order closing appeal. Penalty payment due 10/31/02.
2/27/01	Floyd Kroeze	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
4/13/01	West Central Cooperative	4	Permit Denial	AQ	Preziosi	Negotiations continue.
4/16/01	Richard Thompson; Thompson Auto Parts	5	Admin. Order/Penalty	SW/WW	Tack	Hearing continued to 1/13/03. Site clean-up underway.
5/29/01	Wayne Wheatley fdba Wheatley Auto and Truck Service	3	Admin. Order/Penalty	UT	Wornson	Settlement agreement. Hearing continued. Compliance initiated.
5/29/01	Burco Farms, Inc.	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
6/18/01	Noble Ford Mercury	5	Admin. Order/Penalty	WW	Hansen	7/19/01 – Letter sent to company regarding appeal. 8/15/01 – Company letter to Dept. agreeing to schedule in the order.
6/19/01	Eagle Investors, LLP	4	Admin. Order/Penalty	UT	Wornson	Settled. Compliance achieved.

	d/b/a Manson Ampride					penalty settled. Awaiting penalty payment.
6/19/01	John Hoth	5	Admin. Order/Penalty	UT	Wornson	Compliance completed, negotiating penalty settlement.
6/27/01	Tama Beef Packing, Inc.	5	Admin. Order/Penalty	SW/WW	Hansen	11/20/01 – Tama Beef filed for bankruptcy. Hearing continued by ALJ due to automatic stay provision. 3/14/02 – Notice received from bankruptcy court regarding proposed assumption of lease for plant by AgriProcessors, Inc.
7/02/01	Bulk Petroleum Corp. d/b/a Citgo	5	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
7/10/01	Midway Oil Co. (West Branch – 8603858)	6	Admin. Order/Penalty	UT	Wornson	Midway has failed to sign settlement agreement and is in breach of oral agreement. Hearing set for 1/6/03.
7/10/01	Midway Oil Co. (Davenport – 8602775)	6	Admin. Order/Penalty	UT	Wornson	Hearing set for 1/6/03.
8/09/01	Nevada, City of	5	Admin. Order/Penalty	UT	Wornson	Compliance achieved. Negotiating penalty or SEP.
8/13/01	ABC Disposal Systems, Inc.	1	Admin. Order/Penalty	SW	Tack	4/15/02 – Proposed decision upheld by EPC. Petition for judicial review filed. AG to handle.
8/15/01	Trajat Products, Inc.	4	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
8/17/01	Long Branch Maintenance Corp.	5	Admin. Order/Penalty	WW	Hansen	Informal meeting held at FO 4 on 9/17/01. Tentative agreement reached on revised schedule. 3/27/02 Dept. settlement offer with schedule for improvements. 4/29/02 Letter received from WS attorney regarding settlement. 11/02 Proposed consent order drafted. Waiting for interim limits from WW permits to attach to order.
8/21/01	Earlham, City of	5	Admin. Order/Penalty	WW	Hansen	Informal meeting held at FO 5. 10/31/01 – Dept. settlement offer to City. 11/21/01 – City attorney responded to Dept. settlement offer with counter offer. 11/29/01 – Dept. follow-up letter to City. 12/18/01 – City attorney responded to Dept. offer.
9/25/01	Lawrence Lenertz	5	Admin. Order/Penalty	UT	Wornson	Compliance initiated except penalty payment. Negotiating penalty.
10/02/01	Daryl Larson	6	Admin. Order	AFO	Clark	Negotiating before filing.
10/02/01	Lawrence "Bub" Korver d/b/a Korver Development Co.	3	Admin. Order/Penalty	WW	Tack	Administrative consent order executed to settle all issues. Appeal dismissed. Awaiting penalty settlement payment.
11/01/01	Feeders Grain & Supply, Inc.; James Curtis; Carolyn Curtis	4	Admin. Order/Penalty	WW/HC	Wornson	Hearing continued. Settlement agreement signed. Assessment submitted. Negotiating penalty.
11/07/01	Sir Fredericks, Inc.	5	Admin. Order/Penalty	UT	Wornson	Tier 2 submitted. CADR required. Negotiating penalty.
11/26/01	LeMars, City of	3	Admin. Order/Penalty	WW	Hansen	8/22/02 – Informal meeting held to discuss settlement.
11/27/01	Dallas County Care Facility	5	Admin. Order/Penalty	WW	Hansen	Negotiating before filing.

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12/10/01	Max and Phyllis Graber; Burdean Graber	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
12/17/01	Keith Stoterau; Hopp Construction Co., Inc.	4	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
12/24/01	Joe & Mary Schuster	2	Admin. Order/Penalty	AQ/SW	Preziosi	Settled. Penalty payment plan established.
1/04/02	Negus-Sons, Inc. (Whispering Woods)	4	Order/Penalty	WW	Murphy	Negotiating before filing.
1/09/02	Roger Eblen; Roger Eblen Development; Duane Menke	4	Order/Penalty	WW	Murphy	Negotiating before filing.
1/14/02	George Redman	5	Order/Penalty	AQ	Preziosi	Settled. Penalty payment plan established.
1/18/02	Robert Ward	6	Order/Penalty	WW	Tack	Negotiating before filing.
1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	3/29/02 – Dept. letter to MHP attorney requesting more information on appeal issues. 9/02 – Letter received from MHP attorney.
1/29/02	Partners Four Investments, Inc.	2	Order/Penalty	UT	Wornson	Tier 2 submitted. Negotiating penalty.
1/29/02	Van Meter Development Corp. (Whispering Pines)	5	Order/Penalty	WW	Murphy	ALJ decision 10/18/02. 11/02 - No appeal of decision. Awaiting penalty payment.
2/08/02	ADM – Clinton	6	Permit Conditions	AQ	Preziosi	Requesting additional materials to review.
2/20/02	Storm Lake, City of	2	Permit Conditions	WW	Hansen	Hearing continued to 9/19/02 to allow City to submit updated report to Dept. for review. 7/5/02 – Dept. received letter from City attorney and City engineer; under review by WW permits section. Hearing rescheduled for 12/20/02.
2/25/02	Lee County	6	Permit Conditions	WW	Hansen	11/02 Settled. Amended NPDES permit issued. Dismissal order issued by ALJ on 11/13/02.
3/13/02	Sapp Bros. Truck Stops, Inc.	4	Order/Penalty	WS	Murphy	11/01/02 ALJ decision received. No appeal of decision. Awaiting penalty payment.
3/14/02	Brett George d/b/a Cedar Valley Tree Service	6	Order/Penalty	AQ/SW	Tack	8/16/02 – First penalty payment received. Final payment due 9/15/02.
3/20/02	Mike Messerschmidt	6	Order/Penalty	AQ/SW	Book	Hearing set for 1/22/03.
4/11/02	William Habhab	2	Order/Penalty	SW	Tack	City of Ft. Dodge attempting to enroll site in federal clean-up program. Appeal on hold until 10/02.
4/12/02	Well's Dairy, Inc.	3	Order/Penalty	WW	Hansen	4/26/02 – Letter sent to company attorney regarding request for stay of order. 5/21/02 – Letter received from company attorney. 6/13/02 – Dept. settlement response to Co. attorney. 7/02 – Dept. letter to Co. attorney. 8/22/02 – Informal meeting held to discuss settlement.
4/17/02	Lawrence Handlos	4	Order/Penalty	AFO	Clark	Negotiating before filing.
4/17/02	Kris King	4	Order/Penalty	AFO	Clark	Negotiating before filing.
4/30/02	Dennis Frederickson; Mark Frederickson	4	Order/Penalty	AQ/SW	Preziosi	10/04/02 deadline to respond to DNR letter. 11/02 No response. To be set for hearing.
5/01/02	Piper Motor Company, Inc.; Bruce Piper d/b/a Super Clean Car Wash	6	Order/Penalty	WW	Murphy	Hearing set for 12/09/02.
5/02/02	Minden, City of	4	Order/Penalty	WW	Hansen	Amended order to be issued to

						resolve appeal. 9/3/02 Letter from city engineer regarding project and new schedule. 10/30/02 Letter and draft order to City attorney for review. 11/14/02 Letter from City attorney requesting schedule changes. 11/22/02 DNR letter with revised consent order including requested changes.
5/03/02	M.A., Inc.; Spring Grove MHP	6	Order/Penalty	WW	Hansen	Hearing held 7/30/02. 8/27/02 Proposed decision issued by ALJ. No appeal received. Decision final. 11/1/02 Penalty due. 12/16/02 On EPC agenda for referral to AG for nonpayment of penalty.
5/03/02	M.A., Inc.; Westside Park for MH	6	Order/Penalty	WW	Hansen	Hearing held 7/30/02. 8/27/02 Proposed decision issued by ALJ. No appeal received. Decision final. 11/1/02 Penalty due. 12/16/02 On EPC agenda for referral to AG for nonpayment of penalty.
5/07/02	Jones County Board; Conservation Central Park	1	Order/Penalty	WS	Hansen	Negotiating before filing.
5/08/02	James and Retha Wilson	4	Order/Penalty	UT	Wornson	Negotiating before filing.
5/08/02	Swine Graphics Enterprises, L.P., ADL V Sow Farm	5	Order/Penalty	AFO	Murphy	5/17/02 – Sent to DIA. To be submitted to ALJ by stipulation.
5/09/02	Arthur, City of	3	Order/penalty	WW	Hansen	Negotiating before filing.
5/10/02	Wellington Environmental	6	Order/Penalty	AQ	Book	Will resolve with other Wellington case. Appeal under consideration by Company.
5/13/02	Avery Feeder Pig Co.	2	Order/Penalty	AFO	Clark	Negotiating before filing.
5/23/02	Emer Carlson	6	Order/Penalty	AQ	Book	Settled. Consent amendment agreed upon.
5/30/02	Paul Nagle	5	Order/Penalty	AQ	Book	Consent amendment agreed to with reduced penalty and payment plan. Payments on schedule.
6/03/02	Richard Caves; Charlotte Caves	5	Order/Penalty	HC	Tack	11/02 - Richard Caves' bankruptcy pending. Negotiating resolution.
6/14/02	Deer Track Subdivision; F & J Enterprises	4	Order/Penalty	WW	Murphy	Negotiating before filing.
6/17/02	Allison, City of	2	Order/Penalty	AQ	Preziosi	Settled. Penalty payment plan established.
6/27/02	Northwest Iowa Solid Waste Agency	3	Stipulated Penalties	SW	Tack	9/10/02 – Settlement offer sent.
7/02/02	ITWC	5	Order/Penalty	AQ	Preziosi	Negotiating before filing.
7/02/02	Wellington Environmental (Iowa City)	6	Order/Penalty	AQ	Book	Will resolve with other Wellington case. Appeal under consideration by Company.
7/05/02	Marion Murray; Murray Transfer and Storage	6	Order/Penalty	UT	Wornson	Tank closure completed.
7/09/02	Waukon Golf & Country Club	1	Order/Penalty	UT	Wornson	Compliance initiated, negotiating penalty settlement based on compliance with Tier 1.
7/10/02	Kevin Wallerich	6	Order/Penalty	SW/WW	Tack	9/26/02 – Amended order issued.
7/15/02	Grinnell Properties, Inc.; David Hamilton	5	Order/Penalty	UT	Wornson	Hearing set for 1/8/03.

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7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	Negotiating before filing. \$500 penalty payment received for uncontested portion.
7/22/02	Thombert, Inc.	5	Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Murphy	Negotiating before filing.
7/24/02	Frank Siemens	2	Order/Penalty	AFO	Clark	Negotiating before filing.
7/31/02	Nevada, City of	5	Order/Penalty	WW	Murphy	11/22/02 Settlement offer by DNR.
7/31/02	College Pro Painters	5	Order/Penalty	WW	Murphy	11/04/02 Settlement offer by College Pro. 11/22/02 DNR counter offer.
8/01/02	Poweshiek Water Assn.	1	Order/Penalty	WW	Murphy	10/29/02 – Settled. Awaiting SEP payment.
8/08/02	Jason Strike	1	Order/Penalty	AFO	Murphy	9/25/02 – Settlement offer.
8/12/02	Garry B. Pellett; Pellett Chemical Co., Inc.	4	Order/Penalty	UT	Wornson	Late appeal. Compliance initiated.
8/15/02	Lehigh Portland Cement	2	Order/Penalty	WS	Clark	Negotiating before filing.
8/23/02	Clifton Clark	4	Order/Penalty	AQ/SW	Tack	Clean-up under way. Significant progress made as of 11/14/02 inspection. Negotiating next deadline.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	Negotiating before filing.
9/03/02	Peter Cook	6	Order/Penalty	AQ/SW	Book	Negotiating before filing.
9/06/02	Mitchell Co. Board of Supervisors	2	Order/Penalty	AQ/SW	Book	Settlement reached. 11/02 - Consent amendment issued..
10/01/02	Stan Siems	2	Order/Penalty	AQ/SW	Tack	Negotiating before filing.
10/02/02	Sioux City, City of	3	Permit Conditions	FP	Clark	Negotiating before filing.
10/16/02	Charles Butler	2	Order/Penalty	AQ/SW	Book	Negotiating before filing.
10/18/02	M. Poe Investments; Advanced Technologies	1	Order/Penalty	AQ	Book	Settled. 11/26/02 Signed consent amendment returned. Awaiting Director's signature.
10/21/02	Taylor Oil Co., Inc.; Taylor Quik-Pik	4	Order/Penalty	AQ	Book	11/02 Settled. Consent amendment agreed upon. Awaiting signatures.
10/21/02	Caldwell Meats, Inc.; James Caldwell	5	Order/Penalty	UT	Wornson	Negotiating before filing.
10/24/02	Harold L. Foster; Carolyn Foster; Glogin, Inc.	4	Order	UT	Wornson	All parties appealed.
11/04/02	Walker Bros. Livestock Corp.	6	Order/Penalty	WW	Murphy	New case. Negotiating before filing.
11/12/02	Sully Transport, Inc.; Bice Oil Co.; Tim Bice	4	Order/Penalty	WW/HC	Wornson	New case.
11/13/02	Fran Oil Co.	4	Order/Penalty	UT	Wornson	New case. Compliance achieved. Negotiating penalty.
11/13/02	Iowa Select Farms, L.P., Stockdale Sow Unit	2	Order/Penalty	AFO	Murphy	New case.
11/22/02	Schell Family Partnership	5	Order/Penalty	SW/HC	Tack	New case.
11/27/02	River City Development; Russell Hardy	2	Order/Penalty	UT	Wornson	New case. Appeal untimely.
11/27/02	Chelsea, City of	5	Order/Penalty	WW	Murphy	New case.

During the period November 1, 2002 through November 30, 2002, 3 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October '02	5(9)	1.4	.0291	4	0(0)
November '02	3(4)	1	0.00833	2	0(0)
December '01	3(1)	2	3.50002	1	0(0)
January '02	4(5)	1	.007485	1	0(0)
February '02	5(2)	1.2	.012	2	0(0)
March '02	2(10)	1	.000125	0	0(0)
April '02	5(3)	1	0.50215	2	0(0)
May '02	2(10)	5.5	0.052	1	0(0)
June '02	3(6)	1	0.09667	1	0(0)
July '02	6(6)	2	0.15828	4	0(0)
August '02	3(9)	1	.0069	0	0(1)
September '02	3(5)	1	.13433	2	1(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
0	1	0	1	1	0

Rita Venner said in the new enforcement actions Carroll County was listed as having an alleged violation and asked what it was about.

Mike Murphy said it was a consent order dealing with a private sewage system in Mt. Carmel. They are agreeing to bring those communities into compliance.

INFORMATION ONLY

GENERAL DISCUSSION

Lisa Davis Cook asked for an update on the permit that was issued to a facility who proposed to artificially lower the water table to allow them to construct their lagoon.

Wayne Gieselman said the operator installed test pits, the Department's standard requirement is to wait for seven day before checking them to allow the ground water table to stabilize, however due to extenuating circumstances the pits were in for a three month period before being checked and the Department was able to determine that the ground water table was meeting the two foot separation distance.

Lisa Davis Cook asked if the operator would continue to monitor the wells after the lagoon has been filled.

Wayne Gieselman said they are required in their permit to continue to monitor for water quality.

Kelly Tobin asked about a phosphorus test that was conducted on a field in front of a hog facility in Taylor County.

Wayne Gieselman said the soil tests came back with a phosphorus level that was very high. There is no phosphorus standard at this time in the law or Department rules.

Kelly Tobin said it was his understanding that someone required the Department to take another test but still allowed him to put manure on the field.

Wayne Gieselman said additional tests were conducted, however the issue is that there is no standard for phosphorus that says 1100 is too high even though everyone knows that 30 is ideal for crop production.

Kelly Tobin said this field is located less than one mile of the Lake of Three Fires, which is currently being dredged and needed to be terraced and tiled to prevent further soil loss.

Jeff Vonk asked if the Soil Commission had filed a soil loss complaint against the owner.

Kelly Tobin said they had not.

Jeff Vonk said he saw this problem as a local opportunity for people to get involved. He said the situation in this state cries out for help, and the Department and the Commission are serious about doing everything they can to make improvement in that area. However being a society of laws, we have to follow the laws as they are provided and the rules that the Commission helps to create.

Lengthy discussion followed regarding the procedure for hearings. It was determined that the Commission would allow each party ½ hour to make their presentation, and that the public could comment in writing but there would be no time allowed for public participation during the hearing.

Wayne Gieselman said the Department has been holding meetings with the ethanol producers in the state. There have been some recent settlements on air quality issues with regard to the ethanol industry in Minnesota and the Department has been told by EPA to make an example of a plant in Iowa by levying a fine of a similar amount. The Department has told EPA that they do not believe that any of the ethanol plants in the state have had emissions above the allowable limits. At this time the Department is still working with the industry to make sure they are up to date on the air and water requirements of the state.

He said they have also started a similar process on the Prevention of Significant Deterioration (PSD) air permit which involves utilities and fairly large scale air emitters. One of the big issues they are dealing with is that a lot of the requirements that this program have not been laid down in rule form and therefore not readily available to the permit holders.

He said he wanted to thank the Commission for all of their input, work, and guidance that they give to the Department.

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Murphy adjourned the meeting at 3:40 p.m., Monday, December 16, 2002.

Jeffrey R. Vonk, Director

Kathryn Murphy, Chair

Rita Venner, Secretary

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